

Laws passed at the session of the Legislature of the State of ...

South Dakota

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ENABLING ACT AND CONSTITUTION

— AND —

THE LAWS

PASSED AT THE

NINTH SESSION

— OF THE —

LEGISLATURE

— OF THE —

STATE OF SOUTH DAKOTA

LEGISLATIVE COUNCIL

1905

Begun and Held at Pierre, the Capital of Said State, on Tuesday,
the Third Day of January, 1905, and Concluded
on the Third day of March, 1905

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THE ENABLING ACT

AN ACT to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states.

Section 1. That the inhabitants of all that part of the area of the United States now constituting the Territories of Dakota, Montana and Washington, as at present described, may become the States of North Dakota, South Dakota, Montana and Washington, respectively, as hereinafter provided.

Sec. 2. The area comprising the territory of Dakota shall, for the purposes of this act, be divided on the line of the 7th standard parallel produced due west to the western boundary of said territory; and the delegates elected as hereinafter provided to the constitutional convention in districts north of said parallel shall assemble in convention, at the time prescribed in this act, at the city of Bismarck; and the delegates elected in districts south of said parallel shall, at the same time, assemble in convention at the city of Sioux Falls.

Sec. 3. That all persons who are qualified by the laws of said territories to vote for representatives to the legislative assemblies thereof are hereby authorized to vote for and choose delegates to form conventions in said proposed states; and the qualifications for delegates to such conventions shall be such as by the laws of said territories respectively persons are required to possess to be eligible to the legislative assemblies thereof; and the aforesaid delegates to form said conventions shall be apportioned within the limits of the proposed states, in such districts as may be established as herein provided, in proportion to the population in each of said counties and districts, as near as may be, to be ascertained at the time of making said apportionments by the persons hereinafter authorized to make the same, from the best information obtainable, in each of which districts three delegates shall be elected, but no elector shall vote for more than two persons for delegates to such conventions; that said apportionment shall be made by the governor, the chief justice and the secretary of said territories; and the governors of said territories shall by proclamation order an election of the delegates aforesaid in each of said proposed states, to be held on the Tuesday after the second Monday in May, 1889, which proclamation shall be issued on the fifteenth day of April, 1889; and such election shall be conducted, the returns made, the result ascertained, and the certificates to persons elected to such conventions issued in the same manner as is prescribed by the laws of the said territories regulating elections therein for delegates to congress; and the number of votes cast for delegates in each precinct shall also be returned. The number of delegates to said conventions respectively shall be 75; and all persons resident in said proposed states, who are qualified voters of said

territories as herein provided, shall be entitled to vote upon the election of delegates, and under such rules and regulations as said conventions may prescribe, not in conflict with this act, upon the ratification or rejection of the constitutions.

Sec. 4. That the delegates to the conventions elected as provided for in this act shall meet at the seat of government of each of said territories, except the delegates elected in South Dakota, who shall meet at the city of Sioux Falls, on the fourth day of July, 1889, and after organization shall declare on behalf of the people of said proposed states, that they adopt the constitution of the United States; whereupon the said conventions shall be, and are hereby authorized to form constitutions and state governments for said proposed states respectively. The constitutions shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the constitution of the United States and the principles of the Declaration of Independence. And said conventions shall provide by ordinances irrevocable without the consent of the United States and the people of said states:

First—That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said states shall ever be molested in person or property on account of his or her mode of religious worship.

Second—That the people inhabiting said proposed states do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said states shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the states on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein, or in the ordinances herein provided for, shall preclude the said states from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation; but said ordinances shall provide that all such lands shall be exempt from taxation by said states so long and to such extent as such act of congress may prescribe.

Third—That the debts and liabilities of said territories shall be assumed and paid by said states respectively.

Fourth—That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of said states, and free from sectarian control.

Sec. 5. That the convention which shall assemble at Bismarck shall form a constitution and state government for a state to be known as North Dakota, and the convention which shall assemble at Sioux Falls shall form a constitution and state government for a state to be known as South Dakota; provided, that at the election for delegates to the constitutional convention in South Dakota, as hereinbefore provided, each elector may have written or printed on his ballot the words "For the Sioux Falls Constitution," or the words "Against the Sioux Falls Constitution," and the votes on this question shall be returned and canvassed in the same manner as for the election provided for in section 3 of this act; and if a majority of all votes cast on this question shall be "For the Sioux Falls Constitution," it shall be the duty of the convention which may assemble at Sioux Falls, as herein provided, to re-submit to the people of South Dakota, for ratification or rejection, at the

election hereinafter provided for in this act, the constitution framed at Sioux Falls and adopted November 3, 1885, and also the articles and propositions separately submitted at that election, including the question of locating the temporary seat of government, with such changes only as relate to the name and boundary of the proposed state, to the reapportionment of the judicial and legislative districts, and such amendments as may be necessary in order to comply with the provisions of this act; and if a majority of the votes cast on the ratification or rejection of the constitution shall be for the constitution irrespective of the articles separately submitted, the state of South Dakota shall be admitted as a state in the union under said constitution as herein-after provided; but the archives, records and books of the territory of Dakota shall remain at Bismarck, the capital of North Dakota, until an agreement in reference thereto is reached by said states. But if at the election for delegates to the constitutional convention in South Dakota a majority of all the votes cast at that election shall be "Against the Sioux Falls Constitution," then and in that event it shall be the duty of the convention which will assemble at the city of Sioux Falls on the fourth day of July, 1889, to proceed to form a constitution and state government as provided in this act the same as if that question had not been submitted to a vote of the people of South Dakota.

Sec. 6. It shall be the duty of the constitutional convention of North Dakota and South Dakota to appoint a joint commission to be composed of not less than three members of each convention, whose duty it shall be to assemble at Bismarck, the present seat of government of said territory, and agree upon an equitable division of all property belonging to the territory of Dakota, the disposition of all public records, and also adjust and agree upon the amount of the debts and liabilities of the territory which shall be assumed and paid by each of the proposed states of North Dakota and South Dakota, and the agreement reached respecting the territorial debts and liabilities shall be incorporated in the respective constitutions, and each of said states shall obligate itself to pay its proportion of such debts and liabilities the same as if they had been created by such states respectively.

Sec. 7. If the constitutions formed for both North Dakota and South Dakota shall be rejected by the people at the elections for the ratification or rejection of their respective constitutions as provided for in this act, the territorial government of Dakota shall continue in existence the same as if this act had not been passed. But if the constitution formed for either North Dakota or South Dakota shall be rejected by the people, that part of the territory so rejecting its proposed constitution shall continue under the territorial government of the present territory of Dakota, but shall, after the state adopting its constitution is admitted into the union, be called by the names of the territory of North Dakota or South Dakota, as the case may be; provided, that if either of the proposed states provided for in this act shall reject the constitution which may be submitted for ratification or rejection at the election provided therefor, the governor of the territory in which such proposed constitution was rejected shall issue his proclamation reconvening the delegates elected to the convention which formed such rejected constitution, fixing the time and place at which said delegates shall assemble; and when so assembled they shall proceed to form another constitution or to amend the rejected constitution, and shall submit such new constitution or amended constitution to the people of the proposed state for ratification or rejection, at such time as said convention may determine; and all the provisions of this act, so far as applicable, shall apply to such convention so reassembled and to the constitution which may be formed, its ratification or rejection, and to the admission of the proposed state.

Sec. 8. That the constitutional convention which may assemble in South Dakota shall provide by ordinance for resubmitting the Sioux Falls constitution of 1885, after having amended the same as provided in section 5 of this act, to the people of South Dakota for ratification or rejection at an election to be held therein on the first Tuesday in October, 1889; but if said constitu-

tional convention is authorized and required to form a new constitution for South Dakota it shall provide for submitting the same in like manner to the people of South Dakota for ratification or rejection, at an election to be held in said proposed state on the said first Tuesday in October. And the constitutional conventions which may assemble in North Dakota, Montana and Washington shall provide in like manner for submitting the constitutions formed by them to the people of said proposed states, respectively, for ratification or rejection at elections to be held in said proposed states on the said first Tuesday in October. At the elections provided for in this section the qualified voters of said proposed states shall vote directly for or against the proposed constitutions, and for or against any articles or propositions separately submitted. The returns of said elections shall be made to the secretary of each of said territories, who, with the governor and chief justice thereof, or any two of them, shall canvass the same; and if a majority of the legal votes cast shall be for the constitution the governor shall certify the result to the president of the United States, together with a statement of the votes cast thereon, and upon separate articles or propositions, and a copy of said constitution, articles, propositions and ordinances. And if the constitutions and governments of said proposed states are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the president of the United States to issue his proclamation announcing the result of the election in each, and thereupon the proposed states which have adopted constitutions and formed state governments as herein provided, shall be deemed admitted by congress into the union under and by virtue of this act, on an equal footing with the original states from and after the date of said proclamation.

Sec. 9. That until the next general census, or until otherwise provided by law, said states shall be entitled to one representative in the house of representatives of the United States, except South Dakota, which shall be entitled to two; and the representatives to the Fifty-first congress, together with the governors and other officers provided for in said constitutions, may be elected on the same day of the election for the ratification or rejection of the constitutions; and until said state officers are elected and qualified under the provisions of each constitution and the states, respectively, are admitted to the union, the territorial officers shall continue to discharge the duties of their respective offices in each of said territories.

Sec. 10. That upon the admission of each of said states into the union sections numbered 16 and 36 in every township of said proposed states, and where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said states for the support of common schools, such indemnity lands to be selected within said states in such manner as the legislature may provide, with the approval of the secretary of the interior; provided, that the 16th and 36th sections embraced in permanent reservations for national purposes shall not, at any time, be subjected to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military or other reservations of any character, be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands restored to and become a part of the public domain.

Sec. 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than \$10 per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulations as the legislatures shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such land shall not be subject to pre-emption, home-

stead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

Sec. 12. That upon the admission of each of said states into the union, in accordance with the provisions of this act, 50 sections of the unappropriated public lands within said states, to be selected and located in legal subdivisions as provided in section 10 of this act, shall be, and are hereby granted to said states for the purpose of erecting public buildings at the capital of said states for legislative, executive and judicial purposes.

Sec. 13. That 5 per centum of the proceeds of the sales of public lands lying within said states which shall be sold by the United States subsequent to the admission of said states into the union, after deducting all the expenses incident to the same, shall be paid to the said states, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said states respectively.

Sec. 14. That the lands granted to the territories of Dakota and Montana by the act of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," are hereby vested in the states of South Dakota, North Dakota and Montana, respectively, if such states are admitted into the union as provided in this act, to the extent of the full quantity of 72 sections to each of said states, and any portion of said lands that may not have been selected by either of said territories of Dakota or Montana may be selected by the respective states aforesaid; but said act of February 18, 1881, shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said states severally, and the income thereof be used exclusively for university purposes. And such quantity of the lands authorized by the fourth section of the act of July 17, 1854, to be reserved for university purposes in the territory of Washington, as, together with the lands confirmed to the vendees of the territory by the act of March 14, 1864, will make the full quantity of 72 entire sections, are hereby granted in like manner to the state of Washington for the purposes of a university in said state. None of the lands granted in this section shall be sold at less than \$10 per acre; but said lands may be leased in the same manner as provided in section 11 of this act. The schools, colleges and universities provided for in this act shall forever remain under the exclusive control of the said states respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for sectarian or denominational school, college or university. The section of land granted by the act of June 16, 1880, to the territory of Dakota, for an asylum for the insane, shall, upon the admission of said state of South Dakota into the union, become the property of said state.

Sec. 15. That so much of the lands belonging to the United States as have been acquired and set apart for the purpose mentioned in "An act appropriating money for the erection of a penitentiary in the territory of Dakota," approved March 2, 1881, together with the buildings thereon, be, and the same is hereby granted, together with any unexpended balances of the money appropriated therefor by said act, to said state of South Dakota, for the purposes therein designated; and the states of North Dakota and Washington shall, respectively, have like grants for the same purpose, and subject to like terms and conditions as provided in said act of March 2, 1881, for the territory of Dakota. The penitentiary at Deer Lodge City, Montana, and all lands connected therewith and set apart and reserved therefor, are hereby granted to the state of Montana.

Sec. 16. That 90,000 acres of land to be selected and located as provided in section 10 of this act, are hereby granted to each of said states, except to the state of South Dakota, to which 120,000 acres are granted, for the use and support of agricultural colleges in said states, as provided in the acts of congress making donations of land for such purposes.

Sec. 17. That in lieu of the grant of lands for purposes of internal improvement made to new states by the eighth section of the act of September 4, 1841, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September 28, 1850, and section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands to certain states, which grant it is hereby declared is not extended to the states provided for in this act, and in lieu of any grant of saline lands to said states, the following grants of land are hereby made, to-wit:

To the state of South Dakota: For the school of mines, 40,000 acres; for the reform school, 40,000 acres; for the deaf and dumb asylum, 40,000 acres; for the agricultural college, 40,000 acres; for the university, 40,000 acres; for the state normal schools, 80,000 acres; for public buildings at the capital of said state, 50,000 acres; for such other educational and charitable purposes as the legislature of said state may determine, 170,000 acres; in all 500,000 acres.

To the state of North Dakota a like quantity of land as is in this section granted to the state of South Dakota, and to be for like purposes, and in like proportion as far as practicable.

To the state of Montana: For the establishment and maintenance of a school of mines, 100,000 acres; for state normal schools, 100,000 acres; for agricultural colleges, in addition to the grant hereinbefore made for that purpose, 50,000 acres; for the establishment of a state reform school, 50,000 acres; for the establishment of a deaf and dumb asylum, 50,000 acres; for public buildings at the capital of the state, in addition to the grants hereinbefore made for that purpose, 150,000 acres.

To the state of Washington: For the establishment and maintenance of a scientific school, 100,000 acres; for the state normal schools, 100,000 acres; for public buildings at the state capital, in addition to the grant hereinbefore made for that purpose, 100,000 acres; for state, charitable, educational, penal and reformatory institutions, 200,000 acres.

That the states provided for in this act shall not be entitled to any further or other grants of lands for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the legislatures of the respective states may severally provide.

Sec. 18. That all mineral lands shall be exempted from the grants made by this act. But if sections 16 and 36, or any subdivision or portion of any smallest subdivision thereof in any township shall be found by the department of the interior to be mineral lands, said states are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said states, in lieu thereof, for the use and the benefit of the common schools of said states.

Sec. 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the secretary of the interior, from the surveyed, unreserved and unappropriated public lands of the United States within the limits of the respective states entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said states the number of acres in each heretofore donated by congress to said territories for similar objects.

Sec. 20. That the sum of \$20,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated, to each of said territories for defraying the expenses of the said conventions, except to Dakota, for which the sum of \$40,000 is so appropriated, \$20,000 each for South Dakota and North Dakota, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the territorial legislatures. Any money hereby appropriated not necessary for such purpose shall be covered into the treasury of the United States.

Sec. 21. That each of said states, when admitted as aforesaid, shall constitute one judicial district, the names thereof to be the same as the names of the states, respectively; and the circuit and district courts therefor shall be held at the capital of such state for the time being, and each of said districts shall, for judicial purposes, until otherwise provided, be attached to the Eighth judicial district, except Washington and Montana, which shall be attached to the Ninth judicial circuit. There shall be appointed for each of said districts one district judge, one United States attorney and one United States marshal. The judge of each of said districts shall receive a yearly salary of \$3,500, payable in four equal installments, on the first days of January, April, July and October of each year, and shall reside in the district. There shall be appointed clerks of said courts in each district, who shall keep their offices at the capital of said state. The regular terms of said court shall be held in each district, at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts. The circuit and district courts for each of said districts and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney and clerks of the circuit and district courts of each of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States; and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the state of Nebraska.

Sec. 22. That all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States upon any record from the supreme court of either of the territories mentioned in this act, or that may hereafter lawfully be prosecuted upon any record from either of said courts, may be heard and determined by said supreme court of the United States. And the mandate of execution or of further proceedings shall be directed by the supreme court of the United States to the circuit or district court hereby established within the state succeeding the territory from which such record is or may be pending, or to the supreme court of such state, as the nature of the case may require; provided that the mandate of execution or of further proceedings shall, in cases arising in the territory of Dakota, be directed by the supreme court of the United States to the circuit or district court of the district of South Dakota, or to the supreme court of the state of South Dakota, or to the circuit or district court of the district of North Dakota, or to the supreme court of the state of North Dakota, or to the supreme court of the territory of North Dakota, as the nature of the case may require. And each of the circuit, district and state courts herein named shall, respectively, be the successor of the supreme court of the territory as to all such cases arising within the limits embraced within the jurisdiction of such courts respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of either of the territories mentioned in this act, in any case arising within the limits of any of the proposed states prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the supreme court of the United States as they shall have had by law prior to the admission of said state into the union.

Sec. 23. That in respect to all cases, proceedings and matters now pending in the supreme or district courts of either of the territories mentioned in this act at the time of the admission into the union of either of the states mentioned in this act, and arising within the limits of any such state, whereof the circuit or district courts by this act established might have had jurisdic-

tion under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said territory; and in respect to all other cases, proceedings and matters pending in the supreme or district courts of any of the territories mentioned in this act at the time of the admission of such territory into the union, arising within the limits of said proposed state, the courts established by such state shall, respectively, be the successors of said supreme and district territorial courts; and all the files, records, indictments and proceedings relating to any such cases shall be transferred to such circuit, district and state courts respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause or proceeding now pending, or that prior to the admission of any of the states mentioned in this act shall be pending in any territorial court in any of the territories mentioned in this act, shall abate by the admission of any such state into the union, but the same shall be transferred and proceeded with in the proper United States circuit, district or state court as the case may be; provided, however, that in all civil actions, causes and proceedings in which the United States is not a party, transfers shall not be made to the circuit and district courts of the United States except upon written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request, such cases shall be proceeded with in the proper state courts.

Sec. 24. That the constitutional conventions may, by ordinance, provide for the election of officers for full state governments, including members of the legislatures and representatives in the Fifty-first congress; and said state government shall remain in abeyance until the states shall be admitted into the union, respectively, as provided in this act. In case the constitution of any of said proposed states shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize, and elect two senators of the United States, and the governor and secretary of state of such proposed state shall certify the election of the senators and representatives in the manner required by law, and when such state is admitted into the union the senators and representatives shall be entitled to be admitted to seats in congress, and to all the rights and privileges of senators and representatives of other states in the congress of the United States; and the officers of the state governments, formed in pursuance of said constitutions, as provided by the constitutional conventions, shall proceed to exercise all the functions of such state officers; and all laws in force made by said territories at the time of their admission into the union shall be in force in said states, except as modified or changed by this act or by the constitutions of the states, respectively.

Sec. 25. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislatures of said territories or by congress, are hereby repealed.

CONSTITUTION OF SOUTH DAKOTA

[Adopted by popular vote October 1, 1889. Yeas, 70,131; nays, 3,267]

PREAMBLE

We, the people of South Dakota, grateful to Almighty God for our civil and religious liberties, in order to form a more perfect and independent government, establish justice, insure tranquillity, provide for the common defense, promote the general welfare and preserve to ourselves and to our posterity the blessings of liberty, do ordain and establish this Constitution for the state of South Dakota.

ARTICLE 1

Name and Boundary

§ 1. The name of the state shall be South Dakota.

§ 2. The boundaries of the state of South Dakota shall be as follows: Beginning at the point of intersection of the western boundary line of the state of Minnesota, with the northern boundary line of the state of Iowa, and running thence northerly along the western boundary line of the state of Minnesota to its intersection with the 7th standard parallel; thence west on the line of the 7th standard parallel produced due west to its intersection with the 27th meridian of longitude west from Washington; thence south on the 27th meridian of longitude west from Washington to its intersection with the northern boundary line of the state of Nebraska; thence easterly along the northern boundary line of the state of Nebraska to its intersection with the western boundary line of the state of Iowa; thence northerly along the western boundary line of the state of Iowa; thence east along the northern boundary line of the state of Iowa to the place of beginning.

ARTICLE II

Division of the Powers of Government

The powers of the government of the state are divided into three distinct departments—the Legislative, Executive and Judicial; and the powers and duties of each are prescribed by this Constitution.

ARTICLE III

Legislative Department

§ 1. The legislative power shall be vested in a legislature, which shall consist of a senate and house of representatives. Except that the people expressly reserve to themselves the right to propose measures, which measures the legislature shall enact and submit to a vote of the electors of the state, and also the right to require that any laws which the legislature may have enacted shall be submitted to a vote of the electors of the state before going into effect (except such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions).

Provided, that not more than five per centum of the qualified electors of the state shall be required to invoke either the initiative or the referendum.

This section shall not be construed so as to deprive the legislature or any member thereof of the right to propose any measure. The veto power of the executive shall not be exercised as to measures referred to a vote of the people. This section shall apply to municipalities. The enacting clause of all laws approved by vote of the electors of the state shall be: "Be it enacted by the people of South Dakota." The legislature shall make suitable provisions for carrying into effect the provisions of this section.

[The foregoing section (§ 1) was submitted in its present form by the Legislature in 1897 as an amendment to the Constitution (Chap. 39, Laws of 1897). It was adopted by the people at the general election held November 3, 1898.]

State ex rel. Lavin et al. vs. Bacon et al., 14 S. D. 284-394.

§ 2. The number of members of the house of representatives shall not be less than seventy-five, nor more than one hundred and thirty-five. The number of members of the senate shall not be less than twenty-five nor more than forty-five.

The sessions of the legislature shall be biennial except as otherwise provided in this Constitution.

§ 3. No person shall be eligible to the office of senator who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have attained the age of twenty-five years, and who shall not have been a resident of the state or territory for two years next preceding his election.

No person shall be eligible to the office of representative who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have been a resident of the state or territory for two years next preceding his election, and who shall not have attained the age of twenty-five years.

No judge or clerk of any court, secretary of state, attorney general, state's attorney, recorder, sheriff or collector of public moneys, member of either house of congress, or person holding any lucrative office under the United States, or this state, or any foreign government, shall be a member of the legislature; **Provided**, that appointments in the militia, the offices of notary public and justice of the peace shall not be considered lucrative; nor shall any person holding any office of honor or profit under any foreign government or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of three hundred dollars, hold any office in either branch of the legislature or become a member thereof.

§ 4. No person who has been, or hereafter shall be, convicted of bribery, perjury or other infamous crime, nor any person who has been, or may be collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the legislature or to any office in either branch thereof.

§ 5. The legislature shall provide by law for the enumeration of the inhabitants of the state in the year one thousand eight hundred and ninety-five and even ten years thereafter; and at its first regular session after each enumeration, and also after each enumeration made by authority of the United States, but at no other time, the legislature shall apportion the senators and representatives according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy. **Provided**, that the legislature may make an apportionment at its first session after the admission of South Dakota as a state.

In re State Census, 6 S. D. 540.

§ 6. The terms of the office of the members of the legislature shall be two years; they shall receive for their services the sum of five dollars for each day's attendance during the session of the legislature, and ten cents for

every mile of necessary travel in going to and returning from the place of meeting of the legislature on the most usual route.

Each regular session of the legislature shall not exceed sixty days, except in cases of impeachment, and members of the legislature shall receive no other pay or perquisites except per diem and mileage.

[The foregoing section (§ 6) was amended at the general election held in November, 1892, by reducing the mileage of the members from "ten" to "five" cents per mile.]

§ 7. The legislature shall meet at the seat of government on the first Tuesday after the first Monday of January at 12 o'clock m., in the year next ensuing the election of members thereof, and at no other time except as provided by this Constitution.

§ 8. Members of the legislature and officers thereof, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of South Dakota, and will faithfully discharge the duties of (senator, representative or officer) according to the best of my abilities, and that I have not knowingly or intentionally paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill said office, and have not accepted, nor will I accept or receive directly or indirectly, any money, pass, or any other valuable thing, from any corporation, company or person, for any vote or influence I may give or withhold on any bill or resolution, or appropriation, or for any other official act.

This oath shall be administered by a judge of the supreme or circuit court, or the presiding officer of either house, in the hall of the house to which the member or officer is elected, and the secretary of state shall record and file the oath subscribed by each member and officer.

Any member or officer of the legislature who shall refuse to take the oath herein prescribed shall forfeit his office.

Any member or officer of the legislature who shall be convicted of having sworn falsely to, or violated his said oath, shall forfeit his office and be disqualified thereafter from holding the office of senator or member of the house of representatives or any office within the gift of the legislature.

§ 9. Each house shall be the judge of the election returns and qualifications of its own members.

A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such a manner and under such penalty as each house may provide.

Each house shall determine the rules of its proceedings, shall choose its own officers and employes and fix the pay thereof, except as otherwise provided in this Constitution.

§ 10. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature.

§ 11. Senators and representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same; and for words used in any speech or debate in either house, they shall not be questioned in any other place.

§ 12. No member of the legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the state which shall have been created, or the emoluments of which shall have been increased during the term for which he was elected, nor shall any member receive any civil appointment from the governor, the governor and senate, or from the legislature during the term for which he shall have been elected, and all such appointments and all votes given for any such members for any such office or appointment shall be void; nor shall any member of the legislature during the

term for which he shall have been elected, or within one year thereafter, be interested, directly or indirectly, in any contract with the state or any county thereof, authorized by any law passed during the term for which he shall have been elected.

Palmer vs. State, 11 S. D. 78.

§ 13. Each house shall keep a journal of its proceedings and publish the same from time to time, except such parts as require secrecy, and the yeas and nays of members on any question shall be taken at the desire of one-sixth of those present and entered upon the journal.

Narregang vs. Brown County et al., 14 S. D. 357.

§ 14. In all elections to be made by the legislature the members thereof shall vote viva voce and their votes shall be entered in the journal.

§ 15. The sessions of each house and of the committee of the whole shall be open, unless when the business is such as ought to be kept secret.

§ 16. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

§ 17. Every bill shall be read three several times, but the first and second reading may be on the same day, and the second reading may be by title of the bill, unless the reading at length be demanded. The first and third readings shall be at length.

§ 18. The enacting clause of a law shall be: "Be it enacted by the legislature of the state of South Dakota," and no law shall be passed unless by assent of a majority of all the members elected to each house of the legislature. And the question upon the final passage shall be taken upon its last reading, and the yeas and nays shall be entered upon the journal.

§ 19. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislature, after their titles have been publicly read immediately before signing, and the fact of signing shall be entered upon the journal.

§ 20. Any bill may originate in either house of the legislature, and a bill passed by one house may be amended in the other.

§ 21. No law shall embrace more than one subject, which shall be expressed in its title.

State vs. Morgan, 2 S. D. 32; State vs. Becker, 3 S. D. 29; State vs. Ayres, 8 S. D. 517; Stuart et al. vs. Kirley et al., 12 S. D. 246.

§ 22. No act shall take effect until ninety days after the adjournment of the session at which it passed, unless in case of emergency (to be expressed in the preamble or body of the act) the legislature shall by a vote of two-thirds of all the members elected of each house, otherwise direct.

State ex rel. Lavin et al. vs. Bacon et al., 14 S. D. 284-294; Bank vs. Reeves, 13 S. D. 193.

§ 23. The legislature is prohibited from enacting any private or special laws in the following cases:

1. Granting divorces.
2. Changing the names of persons or places, or constituting one person the heir at law of another.
3. Locating or changing county seats.
4. Regulating county and township affairs.
5. Incorporating cities, towns and villages, or changing or amending the charter of any town, city or village, or laying out, opening, vacating or altering town plats, streets, wards, alleys and public ground.
6. Providing for sale or mortgage of real estate belonging to minors or others under disability.
7. Authorizing persons to keep ferries across streams wholly within the state.
8. Remitting fines, penalties or forfeitures.

9. Granting to an individual, association or corporation any special or exclusive privilege, immunity or franchise whatever.

10. Providing for the management of common schools.

11. Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

But the legislature may repeal any existing special law relating to the foregoing subdivisions.

In all other cases where a general law can be applicable no special law shall be enacted.

Stuart et al. vs. Kirley et al., 12 S. D. 245.

Bon Homme County vs. Berndt et al., 13 S. D. 303.

§ 24. The legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this state, or to any municipal corporation therein.

§ 25. The legislature shall not authorize any game of chance, lottery or gift enterprise, under any pretense, or for any purpose whatever.

§ 26. The legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property, effects, whether held in trust or otherwise, or levy taxes, or to select a capital site, or to perform any municipal functions whatever.

§ 27. The legislature shall direct by law in what manner and in what courts suits may be brought against the state.

§ 28. Any person who shall give, demand, offer, directly or indirectly, any money, testimonial, privilege or personal advantage, thing of value to any executive or judicial officer or member of the legislature, to influence him in the performance of any of his official or public duties, shall be guilty of bribery and shall be punished in such manner as shall be provided by law.

The offense of corrupt solicitation of members of the legislature, or of public officers of the state, or any municipal division thereof, and any effort toward solicitation of said members of the legislature or officers to influence their official action shall be defined by law, and shall be punishable by fine and imprisonment.

Any person may be compelled to testify in investigation or judicial proceedings against any person charged with having committed any offense of bribery or corrupt solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, but said testimony shall not afterward be used against him in any judicial proceeding except for bribery in giving such testimony, and any person convicted of either of the offenses aforesaid, shall be disqualified from holding any office or position or office of trust or profit in this state.

ARTICLE IV

Executive Department

§ 1. The executive power shall be vested in a governor, who shall hold his office two years. A lieutenant governor shall be elected at the same time and for the same term.

§ 2. No person shall be eligible to the office of governor or lieutenant governor except a citizen of the United States and a qualified elector of the state, who shall have attained the age of 30 years, and who shall have resided two years next preceding the election within the state or territory; nor shall he be eligible to any other office during the term for which he shall have been elected.

§ 3. The governor and lieutenant governor shall be elected by the qualified electors of the state at the time and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant governor shall be elected; but if two or more shall

have an equal and highest number of votes for governor or lieutenant governor, the two houses of the legislature at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for governor and lieutenant governor shall be made in such manner as shall be prescribed by law.

§ 4. The governor shall be commander-in-chief of the military and naval forces of the state, except when they shall be called into the service of the United States, and may call out the same to execute laws, suppress insurrection and repel invasion. He shall have the power to convene the legislature on extraordinary occasions. He shall, at the commencement of each session, communicate to the legislature by message, information of the condition of the state, and shall recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws be faithfully executed.

§ 5. The governor shall have the power to remit fines and forfeitures, to grant répieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; **Provided**, that in all cases where the sentence of the court is capital punishment, imprisonment for life, or for a longer term than two years, or a fine exceeding two hundred dollars, no pardon shall be granted, sentence commuted or fine remitted, except upon the recommendation in writing of a board of pardons, consisting of the presiding judge, secretary of state and attorney general, after full hearing in open session, and such recommendation, with the reasons therefor, shall be filed in the office of the secretary of state; but the legislature may by law in all cases regulate the manner in which the remission of fines, pardons, commutations and reprieves, may be applied for. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature at its next regular session, when the legislature shall either pardon or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall communicate to the legislature at each regular session each case of remission of fine, reprieve, commutation or pardon, granted by him in the cases in which he is authorized to act without the recommendation of the said board of pardons, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

§ 6. In case of death, impeachment, resignation, failure to qualify, absence from the state, removal from office, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor.

§ 7. The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If during a vacancy in the office of governor the lieutenant governor shall be impeached, displaced, resign or die, or from mental or physical disease or otherwise become incapable of performing the duties of his office, the secretary of state shall act as governor until the vacancy shall be filled or the disability removed.

§ 8. When any office shall from any cause become vacant and no mode is provided by the constitution or law for filling such vacancy, the governor shall have the power to fill such vacancy by appointment.

State ex rel. Holmes vs. Finnerud, 7 S. D. 237; State ex rel. Lavin et al. vs. Bacon et al., 14 S. D. 284-394.

§ 9. Every bill which shall have passed the legislature, shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, but if not, he shall return it with his objection to the house in which it originated, which shall enter the objection at large upon the journal and proceed to reconsider it. If after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objection, to

the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the legislature shall by its adjournment prevent its return; in which case it shall be filed, with his objection, in the office of the secretary of state, within ten days after such adjournment, or become a law.

§ 10. The governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in the following manner: If the legislature be in session he shall transmit to the house in which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

§ 11. Any governor of this state who asks, receives or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers, or promises his official influence in consideration that any member of the legislature shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said governor, will appoint any particular person or persons to any office created or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said legislature, or who threatens any member that he, the said governor, will remove any person or persons from any office or position with intent to in any manner influence the official action of said member, shall be punished in the manner now, or that may hereafter be provided by law, and upon conviction thereof shall forfeit all right to hold or exercise any office of trust or honor in this state.

§ 12. There shall be chosen by the qualified electors of the state at the time and places of choosing members of the legislature, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of school and public lands, and an attorney general, who shall severally hold their offices for the term of two years, but no person shall be eligible to the office of treasurer for more than two terms consecutively. They shall respectively keep their offices at the seat of government.

§ 13. The powers and duties of the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of school and public lands and attorney general shall be as prescribed by law.

State vs. Becker, 3 S. D. 29.

State vs. Roddle, 12 S. D. 433.

ARTICLE V

Judicial Department

§ 1. The judicial powers of the state, except as in this Constitution otherwise provided, shall be vested in a supreme court, circuit courts, county courts, and justices of the peace, and such other courts as may be created by law for cities and incorporated towns.

§ 2. The supreme court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be coextensive with the

state, and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

City of Huron vs. Campbell, 3 S. D. 309; Vine et al. vs. Jones et al., 13 S. D. 54.

§ 3. The supreme court and the judges thereof shall have power to issue writs of *habeas corpus*. The supreme court shall also have power to issue writs of *mandamus*, *quo warranto*, *certiorari*, *injunction* and other original and remedial writs, with authority to hear and determine the same in such cases and under such regulations as may be prescribed by law; **Provided, however**, that no jury trials shall be allowed in said supreme court, but in proper cases, questions of fact may be sent by said court to a circuit court for trial before a jury.

Everitt vs. Board County Com. Hughes County et al., 1 S. D. 365; State ex rel. Dollard, Attorney General vs. Bd. Co. Comm. Hughes Co. et al., 1 S. D. 292; In re Ringrose, 9 S. D. 349.

State ex rel. McGee vs. Gardner, 3 S. D. 553.

§ 4. At least two terms of the supreme court shall be held each year at the seat of government.

§ 5. The supreme court shall consist of three judges, to be chosen from districts by qualified electors of the state at large, as hereinafter provided.

§ 6. The number of said judges and districts may after five years from the admission of this state under this Constitution, be increased by law to not exceeding five.

§ 7. A majority of the judges of the supreme court shall be necessary to form a quorum or to pronounce a decision, but one or more of said judges may adjourn the court from day to day, or to a day certain.

§ 8. The term of the judges of the supreme court, who shall be elected at the first election under this Constitution, shall be four years. At all subsequent elections the term of said judges shall be six years.

§ 9. The judges of the supreme court shall by rule select from their number a presiding judge, who shall act as such for the term prescribed by such rule.

§ 10. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age, a citizen of the United States, nor unless he shall have resided in this state or territory at least two years next preceding his election and at the time of his election be a resident of the district from which he is elected; but for the purpose of re-election, no such judge shall be deemed to have lost his residence in the district by reason of his removal to the seat of government in the discharge of his official duties.

Jamleson vs. Wiggin, 12 S. D. 16.

§ 11. Until otherwise provided by law, the districts from which the said judges of the supreme court shall be elected shall be constituted as follows:

First District—All that portion of the state lying west of the Missouri river.

Second District—All that portion of the state lying east of the Missouri river and south of the second standard parallel.

Third District—All that portion of the state lying east of the Missouri river and north of the second standard parallel.

§ 12. There shall be a clerk and also a reporter of the supreme court, who shall be appointed by the judges thereof and who shall hold office during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law, and by the rules of the supreme court not inconsistent with law. The legislature shall make provision for the publication and distribution of the decisions of the supreme court, and for the sale of the published volumes thereof. No private person or corporation shall be allowed to secure any copyright to such decisions, but if any copyrights are secured they shall inure wholly to the benefit of the state.

§ 13. The governor shall have authority to require the opinions of the judges of the supreme court upon important questions of law involved in the exercise of his executive powers and upon solemn occasions.

In re Construction of Constitution, 3 S. D. 548.

§ 14. The circuit courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law and consistent with this Constitution; such jurisdiction as to value and amount and grade of offense may be limited by law. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same.

§ 15. The state shall be divided into judicial circuits, in each of which there shall be elected by the electors thereof one judge of the circuit court therein, whose term of office shall be four years.

§ 16. Until otherwise ordered by law, said circuits shall be eight in number and constituted as follows, viz:

Note—The present status of the several circuits of the state is fixed by Article 5, Chapter 11, Political Code, and Chapter 114 of the Session Laws of 1903.

§ 17. The legislature may, whenever two-thirds of the members of each house shall concur therein, increase the number of judicial circuits and the judges thereof, and divide the state into judicial circuits accordingly, taking care that they be formed of compact territory and be bounded by county lines; but such increase of number or change in the boundaries of districts shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed.

§ 18. Writs of error and appeals may be allowed from the decisions of the circuit courts to the supreme court under such regulations as may be prescribed by law.

County Courts

§ 19. There shall be elected in each organized county a county judge who shall be judge of the county court of said county, whose term of office shall be two years until otherwise provided by law.

§ 20. County courts shall be courts of record and shall have original jurisdiction in all matters of probate, guardianship, and settlement of estates of deceased persons, and such other civil and criminal jurisdiction as may be conferred by law; **Provided**, that such courts shall not have jurisdiction in any case where the debt, damage, claim or value of property involved shall exceed one thousand dollars, except in matters of probate, guardianship and the estates of deceased persons. Writs of error and appeal may be allowed from county to circuit courts, or to the supreme court in such cases and in such manner as may be prescribed by law; **Provided**, that no appeal or writ of error shall be allowed to the circuit court from any judgment rendered upon an appeal from a justice of the peace or police magistrate for cities or towns.

§ 21. The county court shall not have jurisdiction in cases of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters, not of the grade of felony, as the legislature may prescribe, and the prosecutions therein may be by information or otherwise as the legislature may provide.

Justice of the Peace

§ 22. Justices of the peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any cause wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars, or where the boundaries or title to real property shall be called in question.

Police Magistrate

§ 23. The legislature shall have power to provide for creating such police magistrates for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively, and such police magistrates may also be constituted ex-officio justices of the peace for their respective counties.

State vs. Wright, 15 S. D. 628.

State's Attorney

§ 24. The legislature shall have power to provide for state's attorneys and to prescribe their duties and fix their compensation; but no person shall be eligible to the office of attorney general or state's attorney who shall not at the time of his election be at least twenty-five years of age and possess all the other qualifications for judges of circuit courts as prescribed in this article.

Miscellaneous

§ 25. No person shall be eligible to the office of judge of the circuit or county courts unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States; nor unless he shall have resided in this state or territory at least one year next preceding his election, and at the time of his election be a resident of the county or circuit, as the case may be, for which he is elected.

Jamieson vs. Wiggin, 12 S. D. 16.

§ 26. The judges of the supreme court, circuit courts and county courts shall be chosen at the first election held under the provisions of this Constitution, and thereafter as provided by law, and the legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose, and may for the purpose of making such provision, extend or abridge the term of office for any of such judges then holding, but not in any case more than six months. The term of office of all judges of circuit courts, elected in the several judicial circuits throughout the state, shall expire on the same day.

§ 27. The time of holding courts within said judicial circuits and counties shall be as provided by law; but at least one term of the circuit court shall be held annually in each organized county, and the legislature shall make provision for attaching unorganized counties or territory to organized counties for judicial purposes.

§ 28. Special terms of said courts may be held under such regulations as may be provided by law.

§ 29. The judges of the circuit courts may hold courts in other circuits than their own, under such regulations as may be prescribed by law.

Holden vs. Haserodt et al., 3 S. D. 4.

§ 30. The judges of the supreme court, circuit courts and county courts shall each receive such salary as may be provided by law, consistent with this Constitution, and no such judge shall receive any compensation, perquisite or emoluments for or on account of his office in any form whatever, except such salary; **Provided**, that county judges may accept and receive such fees as may be allowed under the land laws of the United States.

§ 31. No judge of the supreme court or circuit court shall act as attorney or counselor at law, nor shall any county judge act as an attorney or counselor at law in any case which is or may be brought into his court or which may be appealed therefrom.

§ 32. There shall be a clerk of the circuit court in each organized county, who shall also be clerk of the county court, and who shall be elected by the qualified electors of such county. The duties and compensation of said clerk

shall be as provided by law and regulated by the rules of the court consistent with the provisions of law.

§ 33. Until the legislature shall provide by law for fixing the terms of courts, the judges of the supreme, circuit and county courts respectively shall fix the terms thereof.

§ 34. All laws relating to courts shall be general and of uniform operation throughout the state, and the organization, jurisdiction, power, proceedings and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments and decrees of such courts severally shall be uniform; **Provided, however,** that the legislature may classify the county courts according to the population of the respective counties and fix the jurisdiction and salary of the judges thereof, accordingly.

McClain vs. Williams, 11 S. D. 60.

§ 35. No judge of the supreme or circuit courts shall be elected to any other than a judicial office, or be eligible thereto, during the term for which he was elected such judge. All votes for either of them during such term for any elective office, except that of judge of the supreme court, circuit court or county court, given by the legislature or the people, shall be void.

§ 36. All judges or other officers of the supreme, circuit or county courts provided for in this article shall hold their offices until their successors respectively are elected or appointed and qualified.

§ 37. All officers provided for in this article shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in the elective offices provided for in this article shall be filled by appointment until the next general election as follows: All judges of the supreme, circuit and county courts by the governor. All other judicial and other officers by the county board of the counties where the vacancy occurs; in cases of police magistrates, by the municipality.

In re Supreme Court Vacancy, 4 S. D. 532; State ex rel. McGee vs. Gardner, 3 S. D. 553.

§ 38. All process shall run in the name of the "State of South Dakota." All prosecutions shall be carried on in the name of and by authority of the "State of South Dakota."

State vs. Thompson, 4 S. D. 95.

ARTICLE VI

Bill of Rights

§ 1. All men are born equally free and independent and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring and protecting property and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

State vs. Scougal, 3 S. D. 55.

§ 2. No person shall be deprived of life, liberty or property without due process of law.

State vs. Scougal, 3 S. D. 55.

§ 3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or position on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the state.

No person shall be compelled to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any

religious establishment or mode of worship. No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.

Synod of Dakota vs. State, 2 S. D. 366.

§ 4. The right of petition, and of the people peaceably to assemble to consult for the common good and make known their opinions, shall never be abridged.

§ 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right. In all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be sufficient defense. The jury shall have the right to determine the fact and the law under the direction of the court.

Ross vs. Ward, 14 S. D. 240.

§ 6. The right of trial by jury shall remain inviolate and shall extend to all cases at law without regard to the amount in controversy, but the legislature may provide for a jury of less than twelve in any court not a court of record and for the decision of civil cases by three-fourths of the jury in any court.

Belatti vs. Pierce, 8 S. D. 456.

§ 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

State vs. Burchard, 4 S. D. 549.

State vs. Mitchell, 3 S. D. 223.

§ 8. All persons shall be bailable by sufficient sureties, except for capital offenses when proof is evident or presumption great. The privilege of the writ of *habeas corpus* shall not be suspended unless, when in case of rebellion or invasion, the public safety may require it.

§ 9. No person shall be compelled in any criminal case to give evidence against himself or be twice put in jeopardy for the same offense.

State vs. Reddington, 8 S. D. 315.

§ 10. No person shall be held for a criminal offense unless on the presentment or indictment of the grand jury, or information of the public prosecutor, except in cases of impeachment, in cases cognizable by county courts, by justices of the peace, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger. **Provided**, that the grand jury may be modified or abolished by law.

§ 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause supported by affidavit, particularly describing the place to be searched and the person or thing to be seized.

§ 12. No *ex post facto* law, or law impairing the obligation of contracts or making any irrevocable grant or privilege, franchise or immunity, shall be passed.

§ 13. Private property shall not be taken for public use, or damaged, without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained, and before possession is taken. No benefit which may accrue to the owner as the result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged. The fee of land taken for railroad tracks or other highways shall remain in the owners, subject to the use for which it is taken.

Searle vs. City of Lead, 10 S. D. 312.

Whittaker vs. City of Deadwood et al., 12 S. D. 608.

§ 14. No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment or descent of property.

§ 15. No person shall be imprisoned for debt arising out of or founded upon a contract.

City of Deadwood vs. Allen, 9 S. D. 221.

§ 16. The military shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house without consent of the owner, nor in time of war except in the manner prescribed by law.

§ 17. No tax or duty shall be imposed without the consent of the people or their representatives in the legislature, and all taxation shall be equal and uniform.

§ 18. No law shall be passed granting to any citizen, class of citizens or corporation, privileges or immunities upon which the same terms shall not equally belong to all citizens or corporations.

§ 19. Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty in or out of the state under regulations to be prescribed by the legislature.

§ 20. All courts shall be open, and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law, and right and justice, administered without denial or delay.

§ 21. No power of suspending laws shall be exercised, unless by the legislature or its authority.

§ 22. No person shall be attainted of treason or felony by the legislature.

§ 23. Excessive bail shall not be required, excessive fines imposed, nor cruel punishment inflicted.

State vs. Becker, 3 S. D. 29.

§ 24. The right of citizens to bear arms in defense of themselves and the state shall not be denied.

§ 25. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

§ 26. All political power is inherent in the people, and all free government is founded on their authority, and is instituted for their equal protection and benefit, and they have the right in lawful and constituted methods to alter or reform their forms of government in such manner as they may think proper. And the state of South Dakota is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

§ 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

ARTICLE VII

Elections and Right of Suffrage

§ 1. Every male person resident of this state who shall be of the age of twenty-one years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the territory of Dakota at the date of the ratification of this Constitution by the people, or who shall have resided in the United States one year, in this state six months, in the county thirty days, and in the election precinct where he offers his vote ten days next preceding any election, shall be deemed a qualified elector at such election:

First—Citizens of the United States.

Second—Persons of foreign birth who shall have declared their intention

to become citizens conformably to the laws of the United States upon the subject of naturalization.

Chamberlain vs. Wood et al., 15 S. D. —, 88 N. W. 109.

§ 2. The legislature shall at its first session after the admission of the state into the union submit to a vote of the electors of the state the following question to be voted upon at the next general election held thereafter, namely: "Shall the word 'male' be stricken from the article of the Constitution relating to elections and the right of suffrage?" If a majority of the votes cast upon that question are in favor of striking out said word "male," it shall be stricken out and there shall thereafter be no distinction between males and females in the exercise of the right of suffrage at any election in this state.

Note—The above question was submitted to the people at the election held in November, 1890, and was rejected by the following vote: For, 22,072; against, 45,682.

§ 3. All votes shall be by ballot, but the legislature may provide for numbering ballots for the purpose of preventing and detecting fraud.

§ 4. All general elections shall be biennial.

§ 5. Electors shall in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of election, except in the time of war or public danger.

§ 6. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the military or naval service of the United States.

§ 7. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed therein.

§ 8. No person under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

§ 9. Any woman having the qualifications enumerated in section 1 of this article, as to age, residence and citizenship, and including those now qualified by the laws of the territory, may vote at any election held solely for school purposes and may hold any office in this state, except as otherwise provided in this Constitution.

ARTICLE VIII

Education and School Lands

§ 1. The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the legislature to establish and maintain a general and uniform system of public schools, wherein tuition shall be without charge, and equally open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education.

§ 2. All proceeds of the sale of public lands that have heretofore been or may hereafter be given by the United States for the use of public schools in the state; all such per centum as may be granted by the United States on the sales of public lands; the proceeds of all property that shall fall to the state by escheat; the proceeds of all gifts or donations to the state for public schools or not otherwise appropriated by the terms of the gift; and all property otherwise acquired for public schools, shall be and remain a perpetual fund for the maintenance of public schools in the state. It shall be deemed a trust fund held by the state. The principal shall forever remain inviolate, and may be increased, but shall never be diminished, and the state shall make good all losses thereof which may in any manner occur.

§ 3. The interest and income of this fund, together with the net proceeds of all fines for violation of state laws, and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the public schools of the state, and shall be for this purpose apportioned among and between all the several public school corporations of the state in proportion to the number of children in each, of school age, as may be fixed by law; and no part of the fund, either principal or interest, shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of public schools for the equal benefit of all the people of the state.

§ 4. After one year from the assembling of the first legislature, the lands granted to the state by the United States for the use of public schools may be sold upon the following conditions and no other: Not more than one-third of all such lands shall be sold within the first five years, and no more than two-thirds within the first fifteen years after the title thereto is vested in the state, and the legislature shall, subject to the provisions of this article, provide for the sale of the same.

The commissioner of school and public lands, the state auditor and the county superintendent of schools of the counties severally, shall constitute boards of appraisal and shall appraise all school lands within the several counties which they may from time to time select and designate for sale, at their actual value under the terms of sale.

They shall take care to first select and designate for sale the most valuable lands; and they shall ascertain all such lands as may be of special and peculiar value, other than agricultural, and cause the proper subdivision of the same in order that the largest price may be obtained therefor.

§ 5. No land shall be sold for less than the appraised value, and in no case for less than ten dollars an acre. The purchaser shall pay one-fourth of the price in cash and the remaining three-fourths as follows: One-fourth in five years, one-fourth in ten years and one-fourth in fifteen years, with interest thereon at the rate of not less than six per centum per annum, payable annually in advance; but all such subdivided lands may be sold for cash, provided that upon payment of the interest for one full year in advance, the balance of the purchase price may be paid at any time. All sales shall be at public auction to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of not more than eighty acres, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within four years after appraisal, shall be re-appraised by the board of appraisal as hereinbefore provided before they are sold.

§ 6. All sales shall be conducted through the office of the commissioner of school and public lands as may be prescribed by law, and returns of all appraisals and sales shall be made to said office. No sale shall operate to convey any right or title to any lands for sixty days after the date thereof, nor until the same shall have received the approval of the governor in such form as may be provided by law. No grant or patent for any such lands shall issue until final payment be made.

§ 7. All lands, money or other property donated, granted or received from the United States or any other source for a university, agricultural college, normal schools or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only shall be used. Every such fund shall

be deemed a trust fund held by the state, and the state shall make good all losses therefrom that shall in any manner occur.

§ 8. All lands mentioned in the preceding section shall be appraised and sold in the same maner and by the same officers and boards under the same limitations and subject to all the conditions as to price, sale and approval, provided above for the appraisal and sale of lands for the benefit of public schools, but a distinct and separate account shall be kept by the proper officers of each of such funds.

§ 9. No lands mentioned in this article shall be leased except for pasturage and meadow purposes, and at public auction after notice as hereinbefore provided in case of sale, and shall be offered in tracts not greater than one section. All rents shall be payable annually in advance, and no term of lease shall exceed five years, nor shall any lease be valid until it receives the approval of the governor.

§ 10. No claim to any public lands by any trespasser thereon by reason of occupancy, cultivation or improvement thereof, shall ever be recognized; nor shall compensation ever be made on account of any improvements made by such trespasser.

The following amendment in Section 11, of Article 8, was submitted at the general election held November 8, 1904, and was adopted by a vote of 38,681 to 21,424.

§ 11. The moneys of the permanent school and other educational funds shall be invested only in first mortgages upon good improved farm lands within the state, as hereinafter provided, or in bonds of school corporations within this state, or in bonds of the United States or of the state of South Dakota, or of any organized county, township or incorporated city in said state. The legislature shall provide by law the method of determining the amounts of said funds, which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations, or in bonds of organized counties, townships or incorporated cities within this state, shall for such purpose be divided among the organized counties of the state in proportion to population as nearly as provisions by law to secure continuous investment may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned; and in case of loss of any money so apportioned to any county, such county shall make the same good out of its common revenue. Counties shall invest said money in bonds of school corporations, counties, township or cities, or in first mortgages upon good improved farm lands within their limits respectively. The amount of each loan shall not exceed one-third the actual value of the lands covered by the mortgage given to secure the same, such value to be determined by the board of county commissioners of the county in which the land is situated, and in no case shall more than five thousand (\$5,000) dollars be loaned to any one person, firm or corporation, and the rate of interest shall not be less than five per cent per annum and shall be such other and higher rate as the legislature may provide and shall be payable semi-annually on the first day of January and July; provided, that whenever there are moneys of said fund in any county amounting to one thousand dollars that cannot be loaned according to the provisions of this section and any law pursuant thereto, the said sum may be returned to the state treasurer to be entrusted to some other county or counties, or otherwise invested under the provisions of this section.

Each county shall semi-annually, on the first day of January and July, render an account of the condition of the funds intrusted to it to the auditor

of state, and at the same time pay to or account to the state treasurer for the interest due on all funds intrusted to it.

The legislature may provide by general law that counties may retain from interest collected in excess of five per centum per annum upon all said funds intrusted to them, not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annual payments to the state treasurer of interest at the rate provided by law for such loans, except only said one per centum, and in no case shall the interest so to be paid be less than five per centum per annum.

The legislature shall provide by law for the safe investment of the permanent school and other educational funds and for the prompt collection of interest and income thereof, and to carry out the objects and provisions of this section.

The following amendment in Section 11, of Article 8, was submitted at the general election held November 4, 1902, and was adopted by a vote of 46,472 for to 9,001 against:

The rate of interest upon all investments of the permanent school or other educational funds mentioned in section 11 of Article VIII of the Constitution of this state is hereby changed and reduced from six per centum per annum to five per centum per annum, wherever the said words "six per centum per annum" occur in said section. That if the foregoing amendment shall be approved and ratified by the people at said election, as provided by Article XXIII of the Constitution, said section 11 of Article VIII of the Constitution shall be thereby amended by striking out the said words six per centum per annum wherever they occur in said section 11 and substituting in lieu thereof the words five per centum per annum.

§ 12. The governor may disapprove any sale, lease or investment other than such as are intrusted to the counties.

§ 13. All losses to the permanent school or other educational funds of this state which shall have been occasioned by the defalcation, negligence, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the fund sustaining the loss, upon which not less than six per centum of annual interest shall be paid. The amount of indebtedness so created shall not be counted as a part of the indebtedness mentioned in Article XIII, section 2.

§ 14. The legislature shall provide by law for the protection of the school lands from trespass or unlawful appropriation, and for their defense against all unauthorized claims or efforts to divert them from the school fund.

§ 15. The legislature shall make such provision by general taxation, and by authorizing the school corporations to levy such additional taxes as with the income from the permanent school fund shall secure a thorough and efficient system of common schools throughout the state.

§ 16. No appropriation of lands, money or other property or credits to aid any sectarian school shall ever be made by the state, or any county or municipality within the state, nor shall the state or any county or municipality within the state accept any grant, conveyance, gift or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian instruction shall be allowed in any school or institution aided or supported by the state.

§ 17. No teacher, state, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this state, under such penalties as shall be provided by law.

ARTICLE IX

County and Township Organization

§ 1. The legislature shall provide by general law for organizing new counties, locating the county seats thereof and changing county lines; but no new counties shall be organized so as to include an area of less than twenty-four congressional townships, as near as may be without dividing a township or fractional township, nor shall the boundaries of any organized county be changed so as to reduce the same to a less area than above specified. All changes in county boundaries in counties already organized, before taking effect, shall be submitted to the electors of the county or counties to be affected thereby, at the next general election thereafter and be adopted by a majority of the votes cast in each county at such election. Counties now organized shall remain as they are unless changed according to the above provisions.

Stuart et al. vs. Kirley et al., 12 S. D. 245.

§ 2. In counties already organized where the county seat has not been located by a majority vote, it shall be the duty of the county board to submit the location of the county seat to the electors of said county at a general election. The place receiving a majority of all votes cast at said election shall be the county seat of said county.

State ex rel. Adkin vs. Lien et al., 9 S. D. 297.

Adkin vs. Lien et al., 10 S. D. 436.

State ex rel. Cosper vs. Porter et al., 13 S. D. 126.

§ 3. Whenever a majority of the legal voters of any organized county shall petition the county board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said county board shall submit the same to the people of said county at the next general election, and if the proposition to change the county seat be ratified by two-thirds of the votes cast at said election, then the county seat shall be changed, otherwise not. A proposition to change the location of the county seat of any organized county shall not again be submitted before the expiration of four years.

The above section was amended by popular vote of 36,436 for, to 14,612 against, at the general election held November 4, 1902, to read as follows:

§ 3. Whenever a majority of the legal voters of any organized county shall petition the board to change the location of the county seat which has once been located by majority vote, specifying the place to which it is to be changed, said board shall submit the same to the people of the said county at the next general election, and if the proposition to change the county seat be ratified by two-thirds of the votes cast at said election (except as hereinafter provided) then the county seat shall be changed, otherwise not; **Provided**, however, that in cases where the county seat is not located at a railroad station and it is proposed to remove the same to a railroad station, then the proposition to change the county seat may be ratified by three-fifths of the votes cast at said election, upon the question of such removal, and in such case if the proposition to change the county seat be ratified by three-fifths of the votes cast at said election upon the question of such removal, then the county seat shall be changed, otherwise not.

"A proposition to change the location of the county seat of any organized county shall not again be submitted before the expiration of four years."

§ 4. The legislature shall provide by general law for organizing the counties into townships, having due regard for congressional township lines and natural boundaries, and whenever the population is sufficient and the natural boundaries will permit, the civil townships shall be co-extensive with the congressional townships.

§ 5. In each organized county at the first general election held after the admission of the state of South Dakota into the union, and every two years thereafter, there shall be elected a clerk of the court, sheriff, county auditor, register of deeds, treasurer, state's attorney, surveyor, coroner and superintendent of schools, whose terms of office respectively shall be two years, and except the clerk of the court, no person shall be eligible for more than four years in succession to any of the above named offices.

§ 6. The legislature shall provide by general law for such county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

§ 7. All county, township and district officers shall be electors in the county, township or district in which they are elected; provided that nothing in this section shall prevent the holding of school offices by any person as provided in section 9, Article VII.

ARTICLE X

Municipal Corporations

§ 1. The legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four, and the powers of each class shall be defined by general laws, so that no such corporations shall have any powers, or be subject to any restrictions other than those of all corporations of the same class. The legislature shall restrict the power of such corporations to levy taxes and assessments, borrow money and contract debts, so as to prevent the abuse of such power.

Henderson vs. Hughes County et al., 13 S. D. 576.

§ 2. Except as otherwise provided in this Constitution, no tax or assessment shall be levied or collected, or debts contracted by municipal corporations, except in pursuance of law, for public purposes specified by law; nor shall money raised by taxation, loan or assessment, for one purpose, ever be diverted to any other.

Aldrich et al. vs. Collins et al., 3 S. D. 154; *Howard vs. City of Huron et al.*, 6 S. D. 180; *Shannon et al. vs. City of Huron*, 9 S. D. 356.

§ 3. No street passenger railway or telegraph or telephone line shall be constructed within the limits of any village, town or city without the consent of its local authorities.

ARTICLE XI

Revenue and Finance

§ 1. The legislature shall provide for an annual tax, sufficient to defray the estimated ordinary expenses of the state for each year, not to exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes.

And whenever it shall appear that such ordinary expenses shall exceed the income of the state for such year, the legislature shall provide for levying a tax for the ensuing year, sufficient with other sources of income to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year. And for the purpose of paying the public debt, the legislature shall provide for levying a tax annually, sufficient to pay the annual interest and the principal of such debt within ten years from the final passage of the law creating the debt, provided that the annual tax for the payment of the interest and principal of the public debt shall not exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the

state as ascertained by the last assessment made for the state and county purposes.

In re Limitation of Taxation, 3 S. D. 456.

§ 2. All taxes to be raised in this state shall be uniform on all real and personal property, according to its value in money, to be ascertained by such rules of appraisement and assessment as may be prescribed by the legislature by general law, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property. And the legislature shall provide by general law for the assessing and levying of taxes on all corporation property, as near as may be, by the same methods as are provided for assessing and levying of taxes on individual property.

State ex rel. Grogby vs. Buechler, 10 S. D. 156.

§ 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state shall be a party.

§ 4. The legislature shall provide for taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also for taxing the notes and bills discounted or purchased, moneys loaned and all other property, effects or dues of every description, of all banks and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

§ 5. The property of the United States and of the state, county and municipal corporations, both real and personal, shall be exempt from taxation.

§ 6. The legislature shall, by general law, exempt from taxation property used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation.

§ 7. All laws exempting property from taxation, other than that enumerated in sections 5 and 6 of this article, shall be void.

§ 8. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same, to which the tax only shall be applied.

In re Limitation of Taxation, 3 S. D. 456.

§ 9. All taxes levied and collected for state purposes shall be paid into the state treasury. No indebtedness shall be incurred or money expended by the state, and no warrant shall be drawn upon the state treasurer except in pursuance of an appropriation for the specific purpose first made. The legislature shall provide by suitable enactment for carrying this section into effect.

Carter vs. Thorson, Secretary of State, 5 S. D. 474; VanDusen et al. vs. State, 11 S. D. 318; Stanton vs. State, 5 S. D. 516.

§ 10. The legislature may vest the corporate authority of cities, towns and villages with power to make local improvements by special taxation of contiguous property or otherwise. For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such tax shall be uniform in respect to persons and property within the jurisdiction of the body levying the same.

§ 11. The making of profit, directly or indirectly, out of state, county, city, town or school district money, or using the same for any purpose not authorized by law, shall be deemed a felony and shall be punished as provided by law.

§ 12. An accurate statement of the receipts and expenditures of the public moneys shall be published annually, in such manner as the legislature may provide.

ARTICLE XII

Public Accounts and Expenditures

§ 1. No money shall be paid out of the treasury except upon appropriation by law and on warrant drawn by the proper officer.

§ 2. The general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the executive, legislative and judicial departments of the state, the current expenses of state institutions, interest on the public debt, and for common schools. All other appropriations shall be made by separate bills, each embracing but one object, and shall require a two-thirds vote of all the members of each branch of the legislature.

§ 3. The legislature shall never grant any extra compensation to any public officer, employe, agent or contractor after the services shall have been rendered or the contract entered into, nor authorize the payment of any claims or part thereof created against the state, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void; nor shall the compensation of any public officer be increased or diminished during his term of office; **Provided, however,** that the legislature may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

Somers vs. State, 5 S. D. 321.

§ 4. An itemized statement of all receipts and expenditures of the public moneys shall be published annually in such manner as the legislature shall provide, and such statements shall be submitted to the legislature at the beginning of each regular session by the governor with his message.

ARTICLE XIII

Public Indebtedness

§ 1. Neither the state, nor any county, township or municipality shall loan or give its credit or make donations to or in aid of any individual association or corporation except for the necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor pay or become responsible for the debt or liability of any individual, association or corporation; **Provided,** that the state may assume or pay such debt or liability when incurred in time of war for the defense of the state. Nor shall the state engage in any work of internal improvement.

Cutting vs. Taylor, State Auditor, 3 S. D. 11.

§ 2. For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the state may contract debts never to exceed with previous debts in the aggregate \$100,000, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the state or the United States in war, and provision shall be made by law for the payment of the interest annually, and the principal when due, by tax levied for the purpose or from other sources of revenue; which law providing for the payment of such interest and principal by such tax or otherwise shall be irrepealable until such debt is paid; **Provided, however,** the state of South Dakota shall have the power to refund the territorial debt assumed by the state of South Dakota by bonds of the state of South Dakota.

In re State Warrants, 6 S. D. 518; in re State Bonds, 7 S. D. 42.

§ 3. That the indebtedness of the state of South Dakota limited by section two of this article shall be in addition to the debt of the territory of Dakota assumed by and agreed to be paid by South Dakota.

§ 4. The debt of any county, city, town, school district, civil township,

or other subdivision, shall never exceed five (5) per centum upon the assessed value of the taxable property therein. In estimating the amount of indebtedness which a municipality or subdivision may incur the amount of indebtedness contracted prior to the adoption of this Constitution shall be included.

Provided, that any county, municipal corporation, civil township, district or other subdivision, may incur an additional indebtedness not exceeding ten per centum upon the assessed value of the taxable property therein for the purpose of providing water for irrigation and domestic uses. **Provided, further**, that no county, municipal corporation or civil township shall be included within any such district or subdivision without a majority vote in favor thereof of the electors of the county, municipal corporation or civil township, as the case may be, which is proposed to be included therein, and no such debt shall ever be incurred for any of the purposes in this section provided, unless authorized by a vote in favor thereof of a majority of the electors of such county, municipal corporation, civil township, district or subdivision incurring the same.

Note—The foregoing section (4) was submitted by the legislature in 1895, as an amendment to Section 4 of Article 13 of the Constitution, and was adopted at the general election of 1896 by a vote of 28,490 for, and 14,789 against.

That at the general election held on November 4, 1902, Section 4 of Article 13 of the Constitution was amended by a popular vote of 32,810 for, to 13,599 against, so as to read as follows:

"Section 4. The debt of any county, city, town, school district, civil township or other subdivision, shall never exceed five (5) per centum upon the assessed valuation of the taxable property therein for the year preceding that in which said indebtedness is incurred.

"In estimating the amount of the indebtedness which a municipality or subdivision may incur, the amount of indebtedness contracted prior to the adoption of the Constitution shall be included;

"**Provided**, That any county, municipal corporation, civil township, district or other subdivision may incur an additional indebtedness not exceeding ten per centum upon the assessed valuation of the taxable property therein for the year preceding that in which said indebtedness is incurred, for the purpose of providing water and sewerage for irrigation, domestic uses, sewerage and other purposes; and

"**Provided, further**, That in a city where the population is 8,000 or more, such city may incur an indebtedness not exceeding eight per centum upon the assessed valuation of the taxable property therein for the year next preceding that in which said indebtedness is incurred for the purpose of constructing street railways, electric lights or other lighting plants.

"**Provided, further**, That no county, municipal corporation, civil township, district or subdivision shall be included within such district or subdivision without a majority vote in favor thereof of the electors of the county, municipal corporation, civil township, district or other subdivision as the case may be, which is proposed to be included therein, and no such debt shall ever be incurred for any of the purposes in this section provided, unless authorized by a vote in favor thereof by a majority of the electors of such county, municipal corporation, civil township, district or subdivision incurring the same."

§ 5. Any city, county, town, school district or any other subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

Wilson vs. Board of Education, 12 S. D. 535.

§ 6. In order that the payment of the debts and liabilities contracted or incurred by and in behalf of the territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of

congress approved February 22, 1889, entitled "An act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states," the states of North Dakota and South Dakota, by proceedings of a joint commission, duly appointed under said act, the sessions whereof were held in Bismarck in said state of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the territory of Dakota which shall be assumed and paid by each of the states of North Dakota and South Dakota, respectively, to-wit:

1. This agreement shall take effect and be in force from and after the admission into the union, as one of the United States of America, of either the state of North Dakota or the state of South Dakota.

2. The words "State of North Dakota," wherever used in this agreement, shall be taken to mean the territory of North Dakota, in case the state of South Dakota shall be admitted into the union prior to the admission into the union of the state of North Dakota; and the words "State of South Dakota," wherever used in this agreement, shall be taken to mean the territory of South Dakota in case the state of North Dakota shall be admitted into the union prior to the admission into the union of the state of South Dakota.

3. The said state of North Dakota shall assume and pay all bonds issued by the territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain act of the legislative assembly of the territory of Dakota, approved March 3, 1889, entitled "An act to provide for the refunding of outstanding warrants drawn on the capitol building fund."

4. The said state of South Dakota shall assume and pay all bonds issued by the territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

5. That is to say: The state of North Dakota shall assume and pay the following bonds and indebtedness, to-wit: Bonds issued on account of the hospital for insane at Jamestown, North Dakota, the face aggregate of which is two hundred and sixty-six thousand dollars; also, bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is ninety-six thousand seven hundred dollars; also, bonds issued on account of the penitentiary at Bismarck, North Dakota, the face aggregate of which is ninety-three thousand six hundred dollars; also refunding capitol building warrants, dated April 1, 1889, eighty-three thousand five hundred and seven dollars and forty-six cents.

And the state of South Dakota shall assume and pay the following bonds and indebtedness, to-wit: Bonds issued on account of the hospital for the insane at Yankton, South Dakota, the face aggregate of which is two hundred and ten thousand dollars; also, bonds issued on account of the school for deaf mutes at Sioux Falls, South Dakota, the face aggregate of which is fifty-one thousand dollars; also, bonds issued on account of the university at Vermillion, South Dakota, the face aggregate of which is seventy-five thousand dollars; also, bonds issued on account of the penitentiary at Sioux Falls, South Dakota, the face aggregate of which is ninety-four thousand three hundred dollars; also, bonds issued on account of the agricultural college at Brookings, South Dakota, the face aggregate of which is ninety-seven thousand five hundred dollars; also, bonds issued on account of the normal school at Madison, South Dakota, the face aggregate of which is forty-nine thousand four hundred dollars; also, bonds issued on account of school of mines at Rapid City, South Dakota, the face aggregate of which is thirty-three thousand dollars; also,

bonds issued on account of the reform school at Plankinton, South Dakota, the face aggregate of which is thirty thousand dollars; also, bonds issued on account of the normal school at Spearfish, South Dakota, the face aggregate of which is twenty-five thousand dollars; also, bonds issued on account of the soldiers' home at Hot Springs, South Dakota, the face aggregate of which is forty-five thousand dollars.

6. The states of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore and hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

7. The state of South Dakota shall pay to the state of North Dakota forty-six thousand five hundred dollars on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of the Northern Pacific railroad lands, and the payment of said amount shall discharge and exempt the state of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either state be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institution, grounds or buildings of the territory situated or located within the boundaries of the other state.

8. A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed state of North Dakota, shall be credited to the state of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed state of South Dakota shall be credited to the state of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations since the 8th day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the legislative assembly of the territory of Dakota, approved March 7, 1889, and entitled "An act providing for the levy and collection of taxes upon property of railroad companies in this territory," being chapter 107 of the Session Laws of 1889 (that is, the part of such sum going to the territory) shall be equally divided between the states of North Dakota and South Dakota; and all taxes heretofore or hereafter paid into the said treasury under and by virtue of the act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so * thereof as shall be or has been paid by railroads within the limits of the proposed state of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed state of South Dakota. Each state shall be credited also with all balances of appropriations made by the Sev-

enteenth legislative assembly of the territory of Dakota for the account of public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each state shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such state in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said state as provided in this article; and if there should be a surplus at the time of such final adjustment, each state shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged to it.

§ 7. And the state of South Dakota hereby obligates itself to pay such part of the debts and liabilities of the territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said state of South Dakota as its own debt or liability.

§ 8. The territorial treasurer is hereby authorized and empowered to issue refunding bonds to the amount of \$107,500.00, bearing interest not to exceed the rate of four per cent per annum, for the purpose of refunding the following described indebtedness of the territory of Dakota, to-wit:

Seventy-seven thousand five hundred dollars 5 per cent bonds, date May 1, 1883, issued for the construction of the west wing of the insane hospital at Yankton, and \$30,000 6 per cent bonds, dated May 1, 1883, issued for permanent improvements Dakota penitentiary, at Sioux Falls, such refunding bonds, if issued, to run for not more than twenty years, and shall be executed by the governor and treasurer of the territory, and shall be attested by the secretary under the great seal of the territory.

In case such bonds are issued by the territorial treasurer as hereinbefore set forth, before the first day of October, 1889, then upon the admission of South Dakota as a state it shall assume and pay said bonds in lieu of the aforesaid territorial indebtedness.

ARTICLE XIV

State Institutions

§ 1. The charitable and penal institutions of the state of South Dakota shall consist of a penitentiary, insane hospital, a school for the deaf and dumb, a school for the blind, and a reform school.

§ 2. The state institutions provided for in the preceding section shall be under the control of the state board of charities and corrections, under such rules and restrictions as the legislature shall provide; such board to consist of not to exceed five members, to be appointed by the governor and confirmed by the senate, and whose compensation shall be fixed by law.

State ex rel. Lavin et al. vs. Bacon et al., 14 S. D. 284-394, 85 N. W. 605.

§ 3. The state university, the agricultural college, the normal schools and all other educational institutions that may be sustained either wholly or in part by the state, shall be under the control of a board of five members appointed by the governor and confirmed by the senate, under such rules and restrictions as the legislature shall provide. The legislature may increase the number of members to nine.

Note—This section (3) was submitted as an amendment to Constitution, Article 14, Section 3, by the legislature in 1895, and at the general election in 1896 was adopted by the following vote: 31,061 for, and 11,690 against.

§ 4. The regents shall appoint a board of five members for each institution under their control, to be designated the board of trustees. They shall hold office for five years, one member retiring annually. The trustees of each

institution shall appoint the faculty of the same, and shall provide for the current management of the institution, but all appointments and removals must have the approval of the regents to be valid. The trustees of the several institutions shall receive no compensation for their services, but they shall be reimbursed for all expenses incurred in the discharge of their duties, upon presenting an itemized account of the same to the proper officer. Each board of trustees at its first meeting shall decide by lot the order in which its members shall retire from office.

Note—Constitution Article 14, Section 4, was stricken from the Constitution by an amendment submitted by the legislature in 1895, and was adopted by the popular vote at the general election in 1896: 31,061 for, and 11,690 against.

§ 5. The legislature shall provide that the science of mining and metallurgy shall be taught in at least one institution of learning under the patronage of the state.

ARTICLE XV

Militia

§ 1. The militia of the state of South Dakota shall consist of all able-bodied male persons residing in the state, between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this state.

§ 2. The legislature shall provide by law for the enrollment, uniforming, equipment and discipline of the militia and the establishment of volunteer and such other organizations or both, as may be deemed necessary for the protection of the state, the preservation of order and the efficiency and good of the service.

§ 3. The legislature in providing for the organization of the militia shall conform, as nearly as practicable, to the regulations of the government of the armies of the United States.

§ 4. All militia officers shall be commissioned by the governor, and may hold their commissions for such period of time as the legislature may provide, subject to removal by the governor for cause, to be first ascertained by a court-martial pursuant to law.

§ 5. The militia shall in cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at muster and elections, and in going to and returning from the same.

§ 6. All military records, banners and relics of the state, except when in lawful use, shall be preserved in the office of the adjutant general as an enduring memorial of the patriotism and valor of South Dakota, and it shall be the duty of the legislature to provide by law for the safe keeping of the same.

§ 7. No person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace.

ARTICLE XVI

Impeachment and Removal From Office

§ 1. The house of representatives shall have the sole power of impeachment.

The concurrence of a majority of all members elected shall be necessary to an impeachment.

§ 2. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the governor or lieutenant governor is on trial the presiding judge of the supreme court shall preside.

§ 3. The governor and other state and judicial officers, except county

judges, justices of the peace and police magistrates, shall be liable to impeachment for drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under the state. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

§ 4. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance or crime or misdemeanor in office, or for drunkenness or gross incompetency, in such manner as may be provided by law.

§ 5. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

§ 6. On trial of an impeachment against the governor the lieutenant governor shall not act as a member of the court.

§ 7. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

§ 8. No person shall be liable to impeachment twice for the same offense.

ARTICLE XVII

Corporations

§ 1. No corporation shall be created or have its charter extended, changed or amended by special laws except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state; but the legislature shall provide, by general laws, for the organizations of all corporations hereafter to be created.

§ 2. All existing charters, or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith at the time this constitution takes effect, shall thereafter have no validity.

§ 3. The legislature shall not remit the forfeiture of the charter of any corporation now existing nor alter or amend the same nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

§ 4. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the state.

§ 5. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

§ 6. No foreign corporation shall do any business in this state without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.

§ 7. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

§ 8. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held after sixty days' notice given in pursuance of law.

§ 9. The legislature shall have the power to alter, revise or annul any charter of any corporation now existing and revokable at the taking effect of this Constitution, or any that may be created, whenever in their opinion it may be injurious to the citizens of this state, in such a manner, however, that no injustice shall be done to the incorporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

§ 10. No law shall be passed by the legislature granting the right to construct and operate a street railroad within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

§ 11. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph in this state and to connect the same with other lines; and the legislature shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire by purchase or otherwise any other competing line of telegraph.

§ 12. Every railroad corporation organized or doing business in this state under the laws or authority thereof shall have and maintain a public office or place in this state for the transaction of its business, where transfers of its stock shall be made, and in which shall be kept for public inspection books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amount owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock; the amount of its assets and liabilities; and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the legislature shall pass laws enforcing by suitable penalties the provisions of this section.

§ 13. The rolling stock, and all other movable property belonging to any railroad company or corporation in this state shall be considered personal property and shall be liable to execution and sale in the same manner as the personal property of individuals, and the legislature shall pass no laws exempting such property from execution and sale.

§ 14. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given out at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

§ 15. Railways heretofore constructed or that may hereafter be constructed in this state are hereby declared public highways, and all railroad and transportation companies are declared to be common carriers and subject to legislative control; and the legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight as such common carriers from one point to another in this state.

§ 16. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad, and shall receive and transport each the other's

passengers, tonnage and cars, loaded or empty, without delay or discrimination.

§ 17. The legislature shall pass laws to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

§ 18. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporation or individuals made by viewers or otherwise; and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury as in other civil cases.

§ 19. The term "corporation" as used in this article, shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

§ 20. Monopolies and trusts shall never be allowed in this state, and no incorporated company, copartnership or association of persons in this state shall directly or indirectly combine or make any contract with any incorporated company, foreign or domestic, through their stockholders or the trustees or assigns of such stockholders, or with any copartnership or association of persons, or in any manner whatever to fix the prices, limit the production or regulate the transportation of any product or commodity so as to prevent competition in such prices, production or transportation or to establish excessive prices therefor.

The legislature shall pass laws for the enforcement of this section by adequate penalties, and in the case of incorporated companies, if necessary for that purpose, may, as a penalty, declare a forfeiture of their franchises.

Note—This section (20) was submitted as an amendment to the Constitution by the legislature in 1895, and was adopted by a popular vote of the electors of the state at the general election in 1896, by the following vote: For, 36,763; against, 9,136.

ARTICLE XVIII

Banking and Currency

§ 1. If a general banking law shall be enacted it shall provide for the registry and countersigning by an officer of this state of all bills or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the state treasurer, in the approved securities of the state or of the United States, to be rated at ten per centum below their par value, and in case of their depreciation the deficiency shall be made good by depositing additional securities.

§ 2. Every bank, banking company or corporation shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter close its business, but shall have corporate capacity to sue or be sued until its business is finally closed, but the legislature may provide by general law for the reorganization of such banks.

§ 3. The shareholders or stockholders of any banking corporation shall be held individually responsible and liable for all contracts, debts and engagements of such corporation to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares of stock; and such individual liabilities shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

ARTICLE XIX

Congressional and Legislative Apportionment

§ 1. Until otherwise provided by law, the members of the house of representatives of the United States, apportioned to this state, shall be elected by the state at large.

§ 2. Until otherwise provided by law, the senatorial and representative districts shall be formed, and the senators and representatives shall be apportioned as follows:

Districts

Note—The present apportionment as fixed by Chapter 9, Laws of 1897, is omitted from the Constitution, as the same appears as Article 4 of Chapter 2 of the Political Code.

ARTICLE XX

Seat of Government

§ 1. The question of the location of the temporary seat of government shall be submitted to a vote of the electors of the proposed state of South Dakota in the same manner and at the same election at which this Constitution shall be submitted, and the place receiving the highest number of votes shall be the temporary seat of government until a permanent seat of government shall be established as hereinafter provided.

§ 2. The legislature at its first session after the admission of this state, shall provide for the submission of the question of a place for a permanent seat of government to the qualified voters of the state at the next general election thereafter, and that place which receives a majority of all the votes cast upon that question shall be the permanent seat of government.

§ 3. Should no place voted for at said election have a majority of all votes cast upon this question, the governor shall issue his proclamation for an election to be held in the same manner at the next general election to choose between the two places having received the highest number of votes cast at the first election on this question. This election shall be conducted in the same manner as the first election for the permanent seat of government, and the place receiving the majority of all votes cast upon this question shall be the permanent seat of government.

ARTICLE XXI

Miscellaneous

§ 1. Seal and Coat of Arms] The design of the great seal of South Dakota shall be as follows: A circle within which shall appear in the left foreground a smelting furnace and other features of mining work. In the left background a range of hills. In the right foreground a farmer at his plow. In the right background a herd of cattle and a field of corn. Between the two parts thus described shall appear a river bearing a steamboat. Properly divided between the upper and lower edges of the circle shall appear the legend, "Under God the People Rule," which shall be the motto of the state of South Dakota. Exterior to this circle and within a circumscribed circle shall appear, in the upper part, the words "State of South Dakota," in the lower part the words, "Great Seal," and the date in Arabic numerals of the year in which the state shall be admitted to the union.

Compensation of Public Officers

§ 2. The governor shall receive an annual salary of two thousand five hundred dollars; the judges of the supreme court shall each receive an annual salary of two thousand five hundred dollars; the judges of the circuit court

shall each receive an annual salary of two thousand dollars; **Provided**, that the legislature may, after the year one thousand eight hundred and ninety, increase the annual salary of the governor and each of the judges of the supreme court to three thousand dollars, and the annual salary of each of the circuit court judges to two thousand five hundred dollars. The secretary of state, state treasurer and state auditor shall each receive an annual salary of one thousand eight hundred dollars; the commissioner of school and public lands shall receive an annual salary of one thousand eight hundred dollars; the superintendent of public instruction shall receive an annual salary of one thousand eight hundred dollars; the attorney general shall receive an annual salary of one thousand dollars; the compensation of the lieutenant governor shall be double the compensation of the state senator. They shall receive no fees or perquisites whatever for the performance of any duties connected with their offices. It shall not be competent for the legislature to increase the salaries of the officers named in this article except as herein provided.

Note—By the provisions of Chapter 110, Laws of 1901, approved February 1, 1901, the salaries of the governor and judges of the supreme and circuit courts were increased as contemplated by the above section.

State vs. Roddle, 12 S. D. 433.

§ 3. **Oath of Office**] Every person elected or appointed to any office in this state, except such inferior offices as may be by law exempted, shall before entering upon the duties thereof, take an oath or affirmation to support the constitution of the United States and of this state, and faithfully to discharge the duties of his office.

§ 4. **Exemptions**] The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws exempting from forced sale a homestead, the value of which shall be limited and defined by law, to all heads of families, and a reasonable amount of personal property, the kind and value of which shall be fixed by general laws.

Karcher vs. Gans, 13 S. D. 383; *Fallhee vs. Wittmayer*, 9 S. D. 479.

§ 5. **Rights of Married Women**] The real and personal property of any woman in this state, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property, and shall not be liable for the debts of her husband.

ARTICLE XXII

Compact With the United States

The following article shall be irrevocable without the consent of the United States and the people of the state of South Dakota expressed by their legislative assembly:

First—That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second—That we, the people inhabiting the state of South Dakota, do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundary of South Dakota, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States; and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said state shall never be taxed at a higher rate than the lands belonging to residents of this state; that no taxes shall be imposed by the state of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the state of South Dakota from

taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person a title thereto by patent or other grant save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation. All such lands which may have been exempted by any grant or law of the United States shall remain exempt to the extent, and as prescribed by such act of congress.

Third—That the state of South Dakota shall assume and pay that portion of the debts and liabilities of the territory of Dakota as provided in this Constitution.

Fourth—That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of this state, and free from sectarian control.

ARTICLE XXIII

Amendments and Revisions of the Constitution

§ 1. Any amendment or amendments to this Constitution may be proposed in either house of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and it shall be the duty of the legislature to submit such proposed amendment or amendments to the vote of the people at the next general election. And if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of this Constitution; **Provided**, that the amendment or amendments so proposed shall be published for a period of twelve weeks previous to the date of said election, in such manner as the legislature may provide; and **Provided**, further, that if more than one amendment be submitted they shall be submitted in such manner that the people may vote for or against such amendments separately.

Lovett vs. Ferguson, 10 S. D. 44; State ex rel. Adams et al. vs. Herreid et al., 10 S. D. 109.

§ 2. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise this Constitution they shall recommend to the electors to vote at the next election for members of the legislature, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives of the legislature, and shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

ARTICLE XXIV

Prohibition

Note—Article 24 of the Constitution was adopted at the time of the adoption of the Constitution, October 1, 1889, it being voted upon separately, by the following vote: For, 40,234; against, 34,510. The legislature in 1895 submitted an amendment for the repeal of this article (24), which was adopted by a popular vote of the electors at the general election in 1896, by a vote of 31,901 for, and 24,910 against.

ARTICLE XXV

Minority Representation

Note—Article 25 of the Constitution was submitted to a separate vote at the time of the adoption of the Constitution, October 1, 1889, and was rejected by a vote of 24,161 for, and 46,200 against.

ARTICLE XXVI

Schedule and Ordinance

Note—As the provisions of this article (26), with the exception of sections 17 and 18 thereof, have become obsolete, or fully executed, they have been omitted from this compilation.

§ 17. The ordinances and schedule enacted by this convention shall be held to be valid for all the purposes thereof.

§ 18. That we, the people of the state of South Dakota, do ordain:

First—That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second—That we, the people inhabiting the state of South Dakota, do agree and declare, that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota; and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said state shall never be taxed at a higher rate than the lands belonging to residents of this state. That no taxes shall be imposed by the state of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the state of South Dakota from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person a title thereto by patent or other grant, save and except such lands as have been, or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation, all such lands which may have been exempted by any grant or law of the United States shall remain exempt to the extent, and as prescribed by such act of congress.

Third—That the state of South Dakota shall assume and pay that portion of the debts and liabilities of the territory of Dakota as provided in this Constitution.

Fourth—That provisions shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of this state, and free from sectarian control.

Fifth—That jurisdiction is ceded to the United States over the military reservations of Fort Meade, Fort Randall and Fort Sully, heretofore declared by the president of the United States; **Provided**, legal process, civil and criminal, of this state, shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

These ordinances shall be irrevocable without the consent of the United States, and also the people of the said state of South Dakota, expressed by their legislative assembly.

ARTICLE XXVII

State Control of Manufacture and Sale of Liquor

Note—Article 27 of the Constitution, providing that the manufacture and sale of liquor should be under exclusive state control, was submitted by the legislature in 1897, and adopted by a vote of the people at the general election in 1898, by a vote of 22,170 for, and 20,557 against. The legislature in 1899 submitted an amendment repealing Article 27, and at the general election held in 1900 the amendment was adopted by a vote of 48,673 for, and 33,927 against.

ARTICLE XXVIII

§ 1. The several counties of the state shall invest the moneys of the permanent school and endowment funds in bonds of school corporation, state, county and municipal bonds, or in first mortgages upon good improved farm lands within their limits respectively, under such regulations as the legislature may provide, but no farm loan shall exceed one thousand dollars to any one person, firm or corporation.

Note—Article 28 was proposed by the legislature in 1899 as an amendment to the Constitution, and was at the general election held in November, 1900, adopted by a popular vote of 49,989 for, and 15,653 against.

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STATE GOVERNMENT

1905-1906

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R. F. Kerr.....	Private Secretary.....	Brookings
Vera Dice.....	Stenographer	Clark
J. E. McDougal.....	Lieutenant Governor.....	Britton

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E. A. Platts.....	Assistant Secretary of State.....	Flandreau
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R. C. Sanders.....	State House Janitor.....	Pierre

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 Hon. Dick Haney.....JudgeMitchell
 Hon. Howard G. Fuller.....JudgeFaulkton
 Frank Crane.....ClerkWatertown
 C. Louis Allen.....Deputy Clerk.....Aberdeen
 H. R. Horner.....ReporterPierre
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 Second Circuit.....Hon. Joseph W. Jones.....Sioux Falls
 Third Circuit.....Hon. George H. Marquis.....Clear Lake
 Fourth Circuit.....Hon. Frank B. Smith.....Mitchell
 Fifth Circuit.....Hon. James H. McCoy.....Aberdeen
 Sixth Circuit.....Hon. L. E. Gaffy.....Pierre
 Seventh Circuit.....Hon. Levi McGee.....Rapid City
 Eighth Circuit.....Hon. W. G. Rice.....Deadwood
 Ninth Circuit.....Hon. Charles S. Whiting.....DeSmet

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 Hon. Robert J. Gamble (term expires March 4, 1907).....Yankton

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 Hon. Eben W. Martin.....Deadwood

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Frank LeCocq, Jr.....	Harrison
D. H. Smith.....	Miller
William H. Stanley, Secretary.....	Sioux Falls
(Headquarters of Commissioners are at Sioux Falls)	
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George E. McEathron.....	Huron
D. D. Wipf, Secretary.....	Menno

MEMBERS OF THE SENATE

Ninth Session, 1905

District	County	Name	Politics	Occupation	P. O. Address
1	Union	August Frieberg..	Rep.	Lawyer	Beresford
2	Clay	Jason E. Payne...	Rep.	Lawyer	Vermillion
3	Yankton	Charles H. Dillon	Rep.	Lawyer	Yankton
4	Bon Homme	James H. Stephens	Rep.	Farmer	Springfield
5	Lincoln	Charles H. Cassill	Rep.	Banker	Canton
6	Turner	Wm. H. Stoddard.	Rep.	Farmer	Hurley
7	Hutchinson	John Doering	Rep.	Grain buyer.	Parkston
8	Charles Mix, Douglas and Gregory	Edwin Morgan ...	Rep.	Farmer	Academy
9	Minnehaha	E. B. Northrup...	Rep.	Real estate..	Sioux Falls
9	Minnehaha	Henry Robertson.	Rep.	Lawyer	Dell Rapids
10	McCook	E. L. Abel	Rep.	Banker	Bridgewater
11	Hanson	E. E. Wagner....	Rep.	Lawyer	Alexandria
12	Davison	O. L. Branson....	Rep.	Banker	Mitchell
13	Aurora	W. C. Cook	Rep.	Lawyer	Plankinton
14	Brule	Oliver P. Cordill..	Dem.	Farmer	Brule P. O.
15	Moody	George Rice	Rep.	Lawyer	Flandreau
16	Lake	John Larkin	Rep.	Elevator	Madison
17	Miner	L. E. McQuillan..	Rep.	Livery	Carthage
18	Sanborn	Geo. H. Bonney...	Rep.	Farmer	Farnsworth
19	Jerauld and Buffalo...	R. S. Vessey.....	Rep.	Banker	Wessington Sp's.
20	Brookings	C. T. Doughty....	Rep.	Loans	Brookings
21	Kingsbury	Adam Royhl	Rep.	Grain dealer.	Arlington
22	Beadle	Geo. S. Hutchinson	Rep.	Banker	Huron
23	Hand	F. E. Saltmarsh...	Rep.	Lawyer	Miller
24	Hughes, Hyde and Sully	Howard C. Shober	Rep.	Insurance ...	Highmore
25	Lyman and Stanley...	Warren Young ...	Dem.	Ranchman ...	Fort Pierre
26	Deuel	A. B. Anderson...	Dem.	Ranchman ...	Brandt
27	Hamlin	E. N. Johnson...	Rep.	Merchant ...	Dolph
28	Codington	C. A. Neill.....	Rep.	Saddlery	Watertown
29	Clark	C. E. Hayward....	Rep.	Real estate..	Garden City
30	Spink	R. H. McCaughey.	Rep.	Banker	Mellette
31	Grant	C. S. Amsden....	Rep.	Farmer	Milbank
32	Day and Marshall....	Richard Williams.	Rep.	Real estate..	Langford
32	Day and Marshall....	E. C. Toy	Rep.	Merchant ...	Andover
33	Brown	James M. Lawson.	Rep.	Lawyer	Aberdeen
33	Brown	William Koepsel..	Rep.	Farmer	Groton
34	Roberts	L. S. Hougen.....	Rep.	Banker	Willmot
35	Faulk and Potter....	John F. Whitlock.	Rep.	Banker	Forest City
36	Edmunds and Walworth	M. T. Lightner...	Rep.	Real estate..	Roscoe
37	McPherson and Camp- bell	Chas. D. Blanchard	Rep.	Stockman ...	Pollock
38	Lawrence	Ernest May	Rep.	Mining	Lead
38	Lawrence	H. T. Cooper....	Rep.	Banker	Whitewood
39	Pennington	Myron Willis...	Rep.	Civil engin'r.	Rapid City
40	Meade and Butte....	Sam G. Mortimer.	Rep.	Merchant ...	Belle Fourche
41	Custer and Fall River.	W. F. Hanley.....	Rep.	Banker	Custer

SENATE OFFICERS AND EMPLOYEES

Name	Position	P. O. Address
J. E. McDougall.....	Lieutenant Governor	Britton
L. M. Simons.....	Secretary	Mitchell
W. C. Rempfer.....	First Assistant Secretary.....	Parkston
R. S. Lockhart.....	Second Assistant Secretary.....	Clear Lake
Henry H. Koehn.....	Bill Clerk	Loretta
A. A. Rowen.....	Chief Engrossing and Enrolling Force..	Parker
Harry E. Billings.....	First, Asst. Eng. and Enrolling Force..	Lead
Thos. W. Bishop.....	Sergeant-at-Arms	Salem
Samuel Harter	Assistant Sergeant-at-Arms	Elk Point
M. H. Barnes.....	Postmaster	Vebien
Robert Oliver	Assistant Postmaster	Madison
W. D. Hussong.....	Watchman	Waubay
G. E. Mackey.....	Messenger	Elrod
Rev. John Askin.....	Chaplain	Pierre
Frank Toby	Page	Sioux Falls
Loraine Apley	Page	Woonsocket
Earl Bergen.....	Page	Pierre

MEMBERS OF THE HOUSE OF REPRESENTATIVES

Ninth Session, 1905

District	County	Name	Politics	Occupation	P. O. Address
1	Union	Andrew Martin ...	Rep.	Farmer	Elk Point
1	Union	Sam. A. Omdahl..	Rep.	Farmer	Vermillion
1	Union	Adam Scott	Rep.	Farmer	Hawarden, Ia.
2	Clay	M. J. Chaney.....	Rep.	Banker	Wakonda
2	Clay	J. E. Johnson.....	Rep.	Farmer	Vermillion
3	Yankton	John Holman	Rep.	Lawyer	Yankton
3	Yankton	A. L. VanOsdel....	Rep.	Farmer	Mission Hill
3	Yankton	John Herman	Rep.	Farmer	Lesterville
4	Lincoln	William M. Brown	Rep.	Farmer	Centerville
4	Lincoln	Willard Huff	Rep.	Farmer	Worthing
4	Lincoln	J. L. Kehm.....	Rep.	L'ber & hdw.	Harrisburg
5	Turner	Richard Blue	Rep.	Farmer	Parker
5	Turner	Chas. E. Andrews.	Rep.	Farmer	Hurley
5	Turner	Albert N. Apland.	Rep.	Farmer	Centerville
6	Hutchinson	J. D. Welch.....	Rep.	Farmer	Parkston
6	Hutchinson	Theodore E. Emery	Rep.	Farmer	Parkston
6	Hutchinson	Wilhelm Isaak, Jr.	Rep.	Farmer	Parkston
7	Bon Homme	Herman Waikes...	Rep.	Farmer	Avon
7	Bon Homme	Herman Voigt	Rep.	Farmer	Tyndall
8	Douglas	K. G. Foster.....	Rep.	Real estate..	Armour
9	Charles Mix and Greg- ory.....	Jasper Newton ...	Rep.	Merchant ...	Geddes
9	Charles Mix and Greg- ory.....	Samuel M. Lindley	Rep.	Banker	Bonesteel
10	Minnehaha	Gilbert Thoreson..	Rep.	Farmer	Dell Rapids
10	Minnehaha	John Ebersviller..	Rep.	Farmer	Humboldt
10	Minnehaha	John Bly	Rep.	Farmer	Garretson
10	Minnehaha	C. C. Bratrud.....	Rep.	Real estate..	Sioux Falls
10	Minnehaha	P. J. Rogde.....	Rep.	Lawyer	Sioux Falls
11	McCook	F. T. Jackson.....	Rep.	Real estate..	Ramsey
11	McCook	B. W. Countryman	Rep.	Grain buyer.	Spencer
12	Hanson	Henry Montgomery	Dem.	Farmer	Alexandria
13	Davison	Mark C. Betts....	Rep.	Merchant	Mt. Vernon
14	Sanborn	W. N. Brown.....	Rep.	Real estate..	Woonsocket
15	Aurora	William Sprick ...	Rep.	Farmer	White Lake
16	Jerauld and Buffalo....	J. Jorgenson	Rep.	Stockman	Estherdale
17	Brule	G. W. Brumbaugh	Dem.	Farmer	Dunlap
17	Brule	J. W. Bierce.....	Dem.	Farmer	Pukwana
18	Miner	F. N. Dexter.....	Rep.	Grain buyer.	Canova
19	Lake	B. B. Bowell.....	Rep.	Farmer	Madison
19	Lake	John H. Groce....	Rep.	Farmer	Ramona
20	Moody.....	Chris Olsen	Rep.	Farmer	Trent
20	Moody.....	Henry Hornby	Rep.	Cancer spect	Egan
21	Brookings	Ed Hillestad	Rep.	Farmer	Volga
21	Brookings	August King	Rep.	Farmer	Brookings

MEMBERS OF THE HOUSE OF REPRESENTATIVES—Concluded

District	County	Name	Politics	Occupation	P. O. Address
21	Brookings	Geo. W. Brown...	Rep.	Vet. surgeon.	Elkton
22	Kingsbury	Martin Madison ..	Rep.	Farmer	Manchester
22	Kingsbury	John H. Carroll...	Rep.	Banker	DeSmet
23	Beadle	C. M. Wilson.....	Rep.	Lawyer	Huron
23	Beadle	F. M. Webb.....	Rep.	Merchant	Hitchcock
24	Hand	R. L. Smith.....	Rep.	Stockman	Ree Heights
25	Hughes, Hyde and Sully	John Sutherland...	Rep.	Lawyer	Pierre
25	Hughes, Hyde and Sully	J. H. Gropengelsler	Rep.	Real estate..	Onida
25	Lyman and Stanley...	Wm. E. Sweeney...	Rep.	Merchant	Sweeney P. O.
27	Clark	B. O. Olson.....	Rep.	Farmer	Clark
27	Clark	W. A. Carley.....	Rep.	Farmer	Jolley
28	Codington	Ben E. Lee.....	Rep.	Implement	Watertown
28	Codington	J. H. Michaels....	Rep.	Farmer	Watertown
29	Hamlin	William Trumm...	Rep.	Farmer	Hayti
30	Deuel	Joseph Hebal.....	Rep.	F'rmer & mde	Goodwin
31	Grant	Edgar Kelley	Rep.	Farmer	Milbank
31	Grant	J. D. Steiner.....	Rep.	Merchant	Big Stone
32	Marshall	Don G. Stokes....	Rep.	Merchant	Britton
33	Roberts	D. F. Sanders.....	Rep.	Mach. & hdw.	Summit
33	Roberts	C. E. Conrad.....	Rep.	Farmer	Effington
33	Roberts	Samuel Satre	Rep.	Farmer	Bossko
34	Day	S. L. Potter.....	Rep.	Grain dealer.	Webster
34	Day	Paul F. Zafft.....	Rep.	Merchant	Waubay
34	Day	John Ewald.....	Rep.	Merchant	Pierpont
35	Brown	J. L. Browne.....	Rep.	Real estate..	Aberdeen
35	Brown	P. D. Krlbs.....	Rep.	Druggist	Columbia
35	Brown	I. D. Tower.....	Rep.	Farmer	Ferney
35	Brown	L. C. Turner.....	Rep.	Stockman	Aberdeen
36	Spink	W. D. Craig.....	Rep.	Banker	Frankfort
36	Spink	T. P. Blain.....	Rep.	Banker	Ashton
37	Edmunds	Joseph W. Parmley	Rep.	Real estate..	Ipswich
38	McPherson	John Bauer	Rep.	Farmer	Eureka
39	Walworth	H. R. deMalignon..	Rep.	Farm Impl'ts	Selby
40	Campbell	M. G. Anderson....	Rep.	Farmer	Campbell
41	Potter	J. R. Hughes.....	Rep.	Banker	Gettysburg
42	Faulk	Frank Turner	Rep.	Lawyer	Faulkton
43	Custer	Newton S. Tubbs..	Rep.	Stockman	Custer
44	Fall River	H. D. Clark.....	Rep.	Hotel keeper.	Hot Springs
45	Pennington	Patrick Daley.....	Rep.	Miner	Hill City
45	Pennington	W. E. C. McCain...	Rep.	Stockman	Rapid City
46	Meade	Charles Ham	Rep.	Stockman	Piedmont
47	Butte	O. O. Stokes.....	Rep.	Merchant	Harding
48	Lawrence	A. Shaw	Rep.	Contractor ..	Deadwood
48	Lawrence	Jno. Wolzmueth ..	Rep.	Merchant	Spearfish
48	Lawrence	Jno. Peterson.....	Rep.	Miner	Nemo
48	Lawrence	Fred Pennington..	Rep.	Miner	Lead

HOUSE OFFICERS AND EMPLOYEES

Name	Position	P. O. Address
J. L. Browne.....	Speaker	Aberdeen
H. C. Dunham.....	Chief Clerk	DeSmet
J. M. Miles.....	First Assistant Chief Clerk.....	Redfield
P. L. Randall.....	Second Assistant Chief Clerk.....	Canova
J. B. Devine.....	Sergeant-at-Arms	DeVoe
W. H. Wilson.....	Assistant Sergeant-at-Arms	Hot Springs
J. W. Abbott.....	Postmaster	Webster
John M. O'Neill.....	Chief Clerk Eng. and Enrolling Force..	Sioux Falls
L. S. Hoven.....	First Assistant Eng. and Enr. Force....	Elk Point
Frank Smith.....	Janitor	Pierre
N. E. Howard.....	Assistant Janitor	Pierre
W. A. Dings.....	Bill Clerk	Parkston
H. L. Russell.....	Chaplain	Pierre
Geo. VanRay	Messenger	Millbank
Thos. Perry	Assistant Postmaster	Shindler
C. A. Mattes, Jr.....	Page	Redfield
Arthur deMalignon.....	Page	Selby
Roy Doud	Page	Mitchell
Chas. Webber	Page	Nemo

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ACKNOWLEDGMENTS

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|--------|--|
| 1..... | AN ACT entitled an act regulating the execution and acknowledgment of deeds and other instruments by corporations, and legalizing acknowledgments heretofore made by corporations. |
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ACTS LEGALIZED

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| 2..... | AN ACT to legalize the acts of the boards of county commissioners of any county, the city council of any city, the trustees of any town, or the township board of supervisors of any township, in receiving license and permitting any person, firm or corporation to sell intoxicating liquors in any township, town or city in the state of South Dakota, previous to January 21, 1905, in which the question of granting permits to sell intoxicating liquors had not been submitted to the legal voters of said township, town or city. |
| 3..... | AN ACT to validate Chapter 65, Session Laws of 1903, and all original assessments and proceedings by the different boards of equalization thereunder, and to legalize the same. |
| 4..... | AN ACT entitled an act to legalize the transfer of real property by guardians in certain cases. |
| 5..... | AN ACT entitled an act to legalize the recording of patents and contracts issued by the state of South Dakota prior to February 12, 1905. |
| 6..... | AN ACT entitled an act to legalize the order dispensing with the regular administration, findings of fact and final decree of distribution of the county court, made under the provisions of Chapter 113, Session Laws of 1903. |
| 7..... | AN ACT entitled an act legalizing the ordinances of city councils and board of trustees of town and villages in cases in which the same were not regularly recorded. |

AGRICULTURAL COLLEGE

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| 8..... | AN ACT entitled an act to make it the duty of the faculty of the State Agricultural College at Brookings to make an exhibit annually at the state fair. |
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APPROPRIATIONS

9.....	AN ACT entitled an act providing for an appropriation for the expenses of the executive and judicial departments of the state, interest on public debt, and for the current expenses of all the state officers and institutions of the state of South Dakota, for the fiscal years of 1905 and 1906, and insurance on public buildings.
10.....	AN ACT appropriating money for the per diem, mileage and salaries of the president and members of the senate and house of representatives of the Ninth legislature of the state of South Dakota, and for the per diem and mileage of the retiring secretary of the senate and the temporary chief clerk of the house of representatives, and for the per diem of the sub-employees of both branches of the legislature.
11.....	AN ACT to appropriate money for printing and binding reports of state officers and boards for the fiscal years of 1904, 1905 and 1906, printing and binding daily and permanent journals, house and senate bills for the Ninth legislative assembly of the state of South Dakota, and for such other printing as may be ordered by the Ninth legislative assembly of the state of South Dakota, printing and binding session laws, binding public documents, and expense of distributing such documents and supreme reports.
12.....	AN ACT to appropriate money for the purpose of erecting and equipping a building to promote the interests of the breeding of live stock and poultry and to improve cereal grains and forage plants in the state of South Dakota.
13.....	AN ACT to appropriate money to pay the United States land office filing fees on selection of endowment and indemnity lands.
14.....	AN ACT entitled an act to appropriate money to pay the salary of the secretary of the board of medical examiners, and the per diem, mileage and expenses of members and the incidental expenses of said board from February 15, 1905, to June 30, 1905.
15.....	AN ACT entitled an act to appropriate money for a deficiency in the fund conveying convicts to the state penitentiary.
16.....	AN ACT appropriating money for the use of the state board of equalization.
17.....	AN ACT to appropriate money to pay for labor and material furnished the South Dakota hospital for the insane, at Yankton, South Dakota.
18.....	AN ACT entitled an act authorizing and directing the purchase of a farm for the South Dakota agricultural college and experiment station, and making an appropriation therefor.
19.....	AN ACT entitled an act to appropriate money to put down an artesian well for the northern hospital for the insane, at Redfield, South Dakota.
20.....	AN ACT to appropriate money for a new building and for other improvements at the hospital for the insane at Yankton, South Dakota.
21.....	AN ACT to appropriate money to repair and improve the South Dakota soldiers' home at Hot Springs, South Dakota, and to build four cottages thereat.
22.....	AN ACT making appropriation for improvements for the state fair at Huron.
23.....	AN ACT making an appropriation for the state fair at Huron, South Dakota.
24.....	AN ACT to appropriate money for deficiencies in the maintenance fund of the soldiers' home.

APPROPRIATIONS—Concluded

25.....	AN ACT to appropriate money for a deficiency in the funds for payment of salaries, maintenance, fuel and lights at the Spearfish state normal school.
26.....	AN ACT making appropriation for deficiency for the payment of the per diem and expenses of the state board of agriculture for the years 1903 and 1904.
27.....	AN ACT to appropriate money to supply the deficiency in the maintenance fund of the state school of mines at Rapid City, South Dakota.
28.....	AN ACT to appropriate money to pay mileage and per diem of George W. Snow for opening the senate of the Ninth session of the legislature.
29.....	AN ACT to appropriate money to pay the per diem and mileage of the presidential electors elected at the last general election.
30.....	AN ACT to appropriate money to refund to secret, benevolent or fraternal societies money collected in violation of section 53 of Chapter 51 of the Laws of 1890.
31.....	AN ACT to appropriate money for deficiency in the fund for office expenses in the office of secretary of state.
32.....	AN ACT to appropriate money to pay deficiencies for publishing proposed amendments to the constitution of the state of South Dakota, for legislative stationery, supplies and printing for the Ninth legislative assembly of the state of South Dakota, and for clerk hire for taking care of the legislative supply room.
33.....	AN ACT to appropriate money to pay deficiency for the printing and binding of reports of state officers and state boards of control of the state of South Dakota, and such other reports and documents as were required by law to be printed by officers and employees of said state under the third class of printing for the fiscal year commencing July 1, 1903.
34.....	AN ACT entitled an act to reimburse J. T. Stearns, O. C. Stuart and H. J. King for per diem and mileage while in the discharge of their duties as supervisors of an election held on the 16th day of May, 1893, in the county of Lyman, for the organization of said county.
35.....	AN ACT to appropriate money to pay expenses incurred in criminal prosecutions arising in unorganized counties attached to Lyman county and remaining unpaid for want of appropriation.
36.....	AN ACT to reimburse Jane E. Waldron and Mrs. H. K. Rice for the expense incurred while serving as a member of the woman's investigating board of the state of South Dakota.
37.....	AN ACT to appropriate money for the payment of deficiency incurred by the state board of health during the fiscal year ending June 30, 1903.
38.....	AN ACT entitled an act to appropriate money for the construction, equipment and furnishing of a workshop building upon the lands occupied by the northern normal and industrial school of the state of South Dakota.

ASSESSMENT AND TAXATION

39.....	AN ACT amending section 2098 of the Revised Political Code of South Dakota, relating to boards of equalization.
40.....	AN ACT to define the duties and powers of the county and state boards of assessment in the assessment of properties, and prescribing remedies therefor.
41.....	AN ACT authorizing and empowering the state board of assessment and equalization to levy a tax of two mills on the dollar on the assessed valuation of all taxable property in the state at their annual meeting in August, 1905, for the purpose of paying the deficiency of the preceding year.
42.....	AN ACT entitled an act to provide for county auditors meeting with the state board of assessment and equalization annually for conference relative to assessment, and providing an appropriation therefor.
43.....	AN ACT entitled an act to amend section 2137 of the Revised Political Code of the state of South Dakota, relating to tax levies by the board of county commissioners.
44.....	AN ACT to authorize the consolidation of state tax funds and placing to the credit of the general fund of the state.
45.....	AN ACT entitled an act empowering county commissioners to contract with any competent person for the collection of personal property tax judgments or personal property tax delinquent for more than one year.
46.....	AN ACT to legalize the acts of the city council of the town, now city, of Hot Springs, Fall River county, South Dakota, relating to certain special assessments.
47.....	AN ACT to amend sections 2218 and 2219, Article 14, Chapter 20 of the Revised Political Code of 1903, relating to the collection of taxes on itinerant, transient or bankrupt stocks of merchandise.
48.....	AN ACT to amend section 2108, Article 5, Chapter 20 of the Revised Political Code of 1903, entitled "Assessment and Taxation."
49.....	AN ACT to amend section 1265 of the Revised Political Code of 1903, relating to the collection of city taxes and special assessments.
50.....	AN ACT entitled an act to amend section 1659 of Chapter 17, Article 6 of the Revised Political Code of 1903, relating to road taxes.
51.....	AN ACT entitled an act to amend section 2185, Revised Political Code of 1903, relating to the collection of personal property tax by distress.
52.....	AN ACT amending section 2221, Article 15 of Chapter 20 of the Revised Political Code of 1903, relating to taxation in unorganized counties.
53.....	AN ACT entitled an act to amend sections 2194 and 2195 of the Revised Political Code, relating to notice and time of tax sale.
54.....	AN ACT to tax gifts, legacies and inheritances in certain cases, and to provide for the collection of the same, and fixing penalties.

ATTORNEYS

55.....	AN ACT entitled an act amending section 687 of the Revised Political Code of 1903, relating to the qualifications of persons for admission to practice law in the state of South Dakota.
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BANKS

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| 56..... | AN ACT fixing the liability of banks for the payment of forged or raised checks to a depositor. |
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BEEF AND HIDE INSPECTOR

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| 57..... | AN ACT entitled an act authorizing the appointment of county beef and hide inspector, defining the duties of said inspector, and requiring the inspection of slaughtered beef animals and the hide therefrom, and providing penalty for the violation thereof. |
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BONDS

- | | |
|---------|--|
| 58..... | AN ACT to amend section 1484 of the Political Code of South Dakota, relating to refunding bonds. |
| 59..... | AN ACT entitled an act to authorize counties to fund their outstanding indebtedness. |

BROKEN METAL

- | | |
|---------|--|
| 60..... | AN ACT entitled an act to prohibit the purchase of detached or broken metal fixtures from persons under the age of eighteen years, and providing a penalty therefor. |
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BUILDING AND LOAN ASSOCIATIONS

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| 61..... | AN ACT to amend section 837, Revised Civil Code of 1903, relating to building and loan associations and similar corporations or associations. |
| 62..... | AN ACT entitled an act to amend section 835 of the Revised Civil Code of 1903, relating to building and loan associations, and providing for the issuing of guaranty or permanent stock. |

CENSUS

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|---------|---|
| 63..... | AN ACT entitled an act to provide for the collection, preservation and publication of census and vital statistics, and appropriating money for carrying the same into effect. |
| 64..... | AN ACT entitled an act providing for the taking of the census of children of school age, upon which to apportion school moneys. |

CITIES

- | | |
|---------|--|
| 65..... | AN ACT entitled an act to authorize cities to issue bonds in settlement of judgments, and to compromise judgments. |
| 66..... | AN ACT amending section 1235 of the Revised Political Code, relating to terms of elective officers of a city and of city assessors. |
| 67..... | AN ACT entitled an act to amend subdivision 64 of section 1229, Article 5, Chapter 14 of the Revised Political Code of 1903, relating to cities. |

CONSTITUTION

68.....	A JOINT RESOLUTION proposing and agreeing to an amendment to section 7, Article IX of the constitution of the state of South Dakota, and submitting the same to a vote of electors of the state.
69.....	A JOINT RESOLUTION proposing and agreeing to an amendment to section 23 of Article V of the constitution of the state of South Dakota, and submitting such amendment to the vote of the people.
70.....	A JOINT RESOLUTION proposing and agreeing to an amendment to Article XXI of the constitution of the state of South Dakota, and submitting the same to a vote of the electors of the state.
71.....	A JOINT RESOLUTION proposing and agreeing to an amendment to section 1, Article II of the constitution of the state of South Dakota, entitled "Revenue and Finance," and submitting same to a vote of the people.
72.....	AN ACT to amend section 1910, Article 6, Chapter 19 of the Revised Political Code of 1903, relating to publication of constitutional amendments.

CORPORATIONS

73.....	AN ACT entitled an act concerning the powers of surety, title guaranty, employers' liability and burglary insurance and fidelity corporations, to provide for the examination, management and control of the same.
74.....	AN ACT to provide for the organization, the powers and the control of trust companies.

COUNTY AUDITORS

75.....	AN ACT to amend section 1796 of the Revised Political Code of 1903 of South Dakota, relating to the time when and term of office of certain officers shall begin.
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COUNTY BOARD OF HEALTH

76.....	AN ACT to amend section 252 of the Revised Political Code of South Dakota of 1903, relating to compensation of the superintendent and other members of the county board of health.
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COUNTY COMMISSIONERS

77.....	AN ACT entitled an act providing for the compensation of county commissioners.
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COURTS

78.....	AN ACT fixing the terms of court in the Fourth judicial circuit
79.....	AN ACT entitled an act to amend section 654 of the Revised Political Code of 1903, relating to terms of court in the Second judicial circuit.

COURTS—Concluded

80.....	AN ACT entitled an act to amend section 660 of the Revised Political Code of 1903, as amended by Chapter 112, Session Laws 1903, relating to the Eighth judicial circuit of the state of South Dakota and the terms of court to be held therein.
81.....	AN ACT entitled an act to amend Chapter 194 of the Session Laws of 1903, relating to the determining adverse claims to real estate, and for quieting title thereto by action in the circuit court, and for making unknown persons and the heirs at law and devisees and legatees, and creditors, and executors and administrators of deceased persons, parties defendant thereto.
82.....	AN ACT entitled an act to amend section 102 of Chapter 8 of the Revised Code of Civil Procedure of the state of South Dakota.
83.....	AN ACT to amend sections 201, 203, 204, 207 and 208 of the Revised Probate Code of the state of South Dakota, relating to sales of real and personal property by executors and administrators.
84.....	AN ACT entitled an act to amend section 34 of the Revised Code of Civil Procedure of the state of South Dakota, relating to duties of circuit judges.
85.....	AN ACT entitled an act to amend section 435 of the Revised Probate Code of 1903, relating to the duties of clerks of county courts.
86.....	AN ACT entitled an act to amend section 194 of the Revised Code of Criminal Procedure of 1903, relating to state's attorneys appearing before the grand jury.
87.....	AN ACT entitled an act to amend sections 560, 561, 564, 565 and 566 of the Revised Code of Criminal Procedure of South Dakota, relating to criminal actions against corporations.
88.....	AN ACT to empower the clerk of the county court to adjourn matter coming before said court, or the judge thereof, when the judge is absent or from any cause unable to attend.
89.....	AN ACT entitled "An act conferring jurisdiction on justices of the peace in all cases of assault, assault and battery and petit larceny."
90.....	AN ACT entitled an act to amend section 934 of the Political Code of the state of South Dakota, revision of 1903.
91.....	AN ACT entitled an act to amend sections 408 and 410 of the Probate Code of 1903.
92.....	AN ACT entitled an act to amend section 162 of the Revised Code of Criminal Procedure of 1903, relating to grand juries.
93.....	AN ACT entitled an act to amend section 81 of the Revised Justice Code of 1903, relating to issuance of executions on judgment of justice of the peace.
94.....	AN ACT to amend section No. 171 of the Code of Civil Procedure as contained in the Revised Codes of South Dakota of 1903, relating to the justification of sureties on arrest and bail.
95.....	AN ACT attaching that part of South Dakota lying south of Union county and north of the middle of the main channel of the Missouri river, as now existing, to Union county for judicial purposes.

DAMS

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| 96..... | AN ACT prescribing the duties of the owners of dams now existing or that may hereafter be constructed across the rivers or streams of this state in reference to fish shuttes and waste gates, and prescribing remedies and penalties therefor. |
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DEEDS

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| 97..... | AN ACT requiring title to real estate occupied by state institutions to be vested in fee, and without reversionary clause or condition, in the state of South Dakota. |
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DRAINAGE

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| 98..... | AN ACT providing for the establishment, construction and maintenance of drainage and levees in counties whenever such drainage shall be conducive to the public health, convenience or welfare. |
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EDUCATION

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| 99..... | AN ACT entitled an act to amend sections 2284 and 2285 of the Revised Political Code of 1903, and sections 2286, 2287, 2288, 2289 and 2290 of the Revised Political Code of 1903, as amended by Chapter 132 of the Session Laws of 1903, relating to certification of teachers. |
| 100..... | AN ACT entitled an act to amend section 2294 of the Revised Political Code, relating to the qualifications of teachers. |
| 101..... | AN ACT entitled an act to provide for the government of independent school districts organized by special act or charter that at the time of organization include within their boundaries an incorporated city, town or village that has subsequently re-incorporated and is now acting under the general law for the government of cities, and to legalize the acts of such independent school districts and incorporated cities, towns and villages. |
| 102..... | AN ACT entitled an act to amend section 2323 of the Political Code of 1903, relating to the organization of school districts. |
| 103..... | AN ACT entitled an act to amend section 2424 of the Political Code of 1903, relating to school bonds. |
| 104..... | AN ACT entitled an act defining the duties of school district officers in relation to the planting, cultivation and protection of trees and shrubs upon the school house grounds. |
| 105..... | AN ACT entitled an act relating to the study of physiology and hygiene in the public schools. |

ELECTIONS

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| 106..... | AN ACT entitled an act to amend section 1007 of the Revised Political Code of 1903, as amended by Chapter 136 of the Session Laws of 1903, approved March 10, 1903, relating to the election of township officers at annual town meetings. |
| 107..... | AN ACT to provide for the holding and regulation of primaries and conventions. |

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108.....	AN ACT entitled an act defining the crime of making a false statement or statements for the purpose of receiving aid, and prescribing the penalty therefor.
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109.....	AN ACT empowering, authorizing and directing the payment of the expenses of holding and maintaining farmers' institutes in counties where the same shall be held.
110.....	AN ACT to establish and maintain farmers' institutes in the state of South Dakota.

FIRE GUARDS

111.....	AN ACT to amend Article 24, Chapter 13 of the Revised Political Code of 1903, entitled Township Government, relating to the construction of fire guards.
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FISH

112.....	AN ACT entitled an act to amend sections 3100, 3103, as amended by Chapter 145 of the Session Laws of 1903, and 3108 of the Revised Political Code of South Dakota, relating to the preservation of fish.
113.....	AN ACT entitled "An act regulating the taking of fish in any lake, river or waters forming a boundary line between South Dakota and any other state of the United States."

FOOD AND DAIRY

114.....	AN ACT entitled "An act to provide for a state food and dairy department; to prevent the adulteration, misbranding and imitation of foods, beverages, candies and condiments, and regulating the manufacture and sale of dairy products."
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115.....	AN ACT entitled an act to prohibit dealing in options and futures, prohibiting running or operating bucket shops, and prescribing penalties for violation thereof.
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116.....	AN ACT entitled an act to amend sections 3077, 3079 and 3083, as amended by Chapter 149 of the Session Laws of 1903, and sections 3088 and 3091 of the Political Code of 1903, relating to the appointment of game wardens, defining their powers and duties, the punishment for hunting, pursuing and killing certain game, and providing for hunters' license.
117.....	AN ACT to amend subdivision 6 of section 3054 of the Revised Political Code of 1903, regulating the killing of beaver or otter.

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118.....	AN ACT to secure the safety in selling gasoline.
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119.....	AN ACT entitled an act relating to roads and highways on lands acquired by reliction.
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120.....	AN ACT to amend chapter 153 of the Session Laws of 1903, relating to the shipment and inspection of horses, entitled "An act providing for the inspection of branded horses about to be shipped out of the state of South Dakota; creating the sheriffs of the different counties inspectors of horses, prescribing their duties and fixing their compensation therefor, and prohibiting railroad, steamboat, ferryboat and bridge companies from receiving branded horses for shipment out of the state of South Dakota without first being inspected.
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INTOXICATING LIQUORS

121.....	AN ACT entitled an act to prevent the adulteration of vinous, spirituous, malt, brewed, fermented or other intoxicating liquors, and the sale of such adulterated liquors, and prescribing penalties therefor.
122.....	AN ACT entitled an act to regulate the sale of liquor within five miles of the construction camps on public works.
123.....	AN ACT limiting and regulating the furnishing of prescriptions by physicians for the sale or disposition of intoxicating liquors.
124.....	AN ACT entitled an act to amend section 2837, Political Code, Revised Laws 1903, relating to intoxicating liquors.

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125.....	AN ACT entitled an act for the organization and regulation of mutual life insurance companies on fixed level premium plan.
126.....	AN ACT entitled an act prescribing a standard form of fire insurance policy, and providing penalties and regulations pertaining thereto.
127.....	AN ACT entitled an act to amend section 1525 of the Revised Political Code of South Dakota, relating to payment of insurance tax moneys to city, town and village fire departments.
128.....	AN ACT entitled an act to amend section 1 of Chapter 163 of the Session Laws of 1903, relating to insurance by mutual insurance companies, taking notes for unpaid premiums or assessments, prescribing penalties for violating thereof, and defense to actions brought on such notes.
129.....	AN ACT to amend section 635 of Article 14 of the Revised Civil Code of 1903, relating to county mutual insurance companies.
130.....	AN ACT entitled an act to amend section 593 of the Revised Civil Code of 1903, as amended by Chapter 160, Laws of 1903, relating to annual statements of insurance companies.

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IRRIGATION

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| 132..... | AN ACT entitled an act to provide for a state irrigation code. |
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LIVE STOCK

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| 133..... | AN ACT to create a state live stock commission, defining its powers and duties, providing for appointment of county cattle inspectors and for the eradication of contagious, infectious and communicable diseases among domestic animals, and appropriating money for the purpose of enforcing the provisions of this act. |
| 134..... | AN ACT entitled an act empowering county commissioners to authorize sheriffs to offer rewards for the capture and conviction of horse thieves, sheep thieves or cattle thieves, and to provide for the payment of the same. |
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MEATS

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| 135..... | AN ACT entitled an act to provide for the inspection of animals intended for meat supplies, and of meat intended for consumption in cities, villages and townships, to regulate slaughter houses and meat markets, and to license the sale of meats in cities, villages and townships. |
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MEDICAL EXAMINERS

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| 136..... | AN ACT to amend sections 2 and 23, Chapter 176, Session Laws of South Dakota, 1903, relating to the board of medical examiners of this state. |
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| 137..... | AN ACT entitled an act requiring registration of motor vehicles and regulating their use or operation upon highways or streets. |
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NORTHEASTERN HOSPITAL FOR THE INSANE

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| 138..... | AN ACT to establish a northeastern hospital for the insane. |
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NORTHERN HOSPITAL FOR THE INSANE

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| 139..... | AN ACT defining the objects and purposes of the northern hospital for the insane, and providing for its management and control. |
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NOTES

140.....	AN ACT entitled an act making certain notes non-negotiable, providing for their being so marked, and providing penalty for violation thereof.
141.....	AN ACT entitled an act to regulate the practice of medicine, and the form of notes and contracts taken for medicines or medical treatment, making certain acts and practices criminal, and prescribing penalties.

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142.....	AN ACT to amend Chapter 189 of the Session Laws of 1903, entitled "An act to amend Article 28 of Chapter 27 of the Political Code of 1903 of the state of South Dakota, relating to the inspection of petroleum products, the appointment of inspectors, establishing of inspection districts, fees and salaries of inspectors, and prohibiting the sale of adulterated oils, and providing penalties for violations thereof."
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143.....	AN ACT entitled an act to amend section 366 of Chapter 4 of the Revised Political Code of 1903, relating to the practice of osteopathy.
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144.....	AN ACT to provide for the conditional release and parole of convicts confined in the penitentiary, regulating their conduct during such period of parole, providing for the return of convicts violating the conditions of such parole, providing the duties of public officers in connection therewith, and penalty for the failure of a public officer to comply with the terms of this act.
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145.....	AN ACT to amend section 385, Article 1, Chapter 6 of the Revised Political Code of 1903.
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146.....	AN ACT entitled an act to amend section 2869 of the Revised Political Code of 1903, as amended by Chapter 191 of the laws passed at the Eighth session of the legislature of the state of South Dakota, Session Laws 1903.
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PEDDLERS

147.....	AN ACT entitled an act to amend section 7 of Chapter 190 of the Session Laws of the state of South Dakota for the year 1903, relating to peddlers, transient merchants, traders or dealers, and prescribing penalty for failure to procure a license as such peddler, transient merchant, trader or dealer.
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| 148..... | AN ACT entitled an act to amend section 118 of the Political Code, Revised Statutes of 1903, relating to the compensation of public examiner. |
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RECORD OF INSTRUMENTS

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| 149..... | AN ACT entitled an act to amend section 961 of the Revised Civil Code of 1903, relating to the record of instruments affecting real property, and providing for the admission of the record thereof in evidence. |
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REFORM SCHOOL

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| 150..... | AN ACT entitled an act to amend section 716 of Chapter 3, Title 12 of the Revised Code of Criminal Procedure of 1903, relating to term of commitment to the reform school. |
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ROBBERY

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| 151..... | AN ACT entitled an act to amend section 294 of the Revised Penal Code of the state of South Dakota, relating to punishment for robbery in the first degree. |
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SALARIES

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| 152..... | AN ACT amending Chapter 207 of the Session Laws of 1903, entitled "An act to amend section 894 of the Revised Political Code of 1903, regulating salaries of registers of deeds and county auditors of the several counties." |
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SEWERAGE

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| 153..... | AN ACT entitled an act providing for special assessment of real property benefited by the construction of sewers within any city of this state, which has issued or may hereafter issue sewer bonds for the construction of a system of sewerage within such city, and to repeal sections 1346, 1347, 1348, 1349, 1350 and 1351 of the Revised Political Code of 1903. |
| 154..... | AN ACT entitled an act to authorize cities to purchase and acquire by condemnation private property with or without the corporate limits thereof, for the purpose of establishing, constructing, maintaining and operating a sewer system for the use of cities and their inhabitants. |
| 155..... | AN ACT entitled an act authorizing and empowering cities of this state to issue its bonds for the purpose of constructing and maintaining a system of sewerage therein, and to pay for systems of sewerage heretofore constructed. |

SINKING FUNDS

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| 156..... | AN ACT to provide for the loaning of the sinking funds of counties in the state of South Dakota, and designating the kinds of securities in which said funds may be invested, and the manner of making said loans or investments. |
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SOLDIERS' HOME

157.....	AN ACT entitled an act relating to the soldiers' home, prescribing rules and regulations for its government, prescribing the qualifications of applicants for admission thereto; prescribing the qualifications of and providing for the appointment of a board of commissioners and commandant thereof, prescribing their duties and fixing their compensation; prescribing the qualifications of and providing for the appointment of subordinate officers and employes, and to repeal Chapter 10 of the Revised Political Code of the state of South Dakota, and Chapter 214 of the Session Laws of 1903.
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SCHOOL AND PUBLIC LANDS

158.....	AN ACT entitled an act amending section 396 of the Revised Political Code of South Dakota, relating to the apportionment of funds derived from the lease of school lands; the lease of public lands not apportioned to any educational, penal or charitable institution; the accrued interest on invested funds derived from the sale of school and public lands not apportioned to any educational, penal or charitable institution, and the accrued interest on invested funds derived from the five per centum paid by the United States on sale of public lands within this state.
159.....	AN ACT entitled an act providing for the payment of court costs in actions brought for the collection of rentals and damages on public lands and for trespass thereon.
160.....	AN ACT to amend section 369, Article 1, Chapter 6 of the Revised Political Code of 1903.
161.....	AN ACT to amend section 402, Article 1, Chapter 6, Revised Political Code of 1903, and as amended by Chapter 211 of the Session Laws of 1903, relating to the investment of permanent school funds.

SCHOOL BONDS

162.....	AN ACT entitled an act to amend section 2386 of the Revised Political Code of 1903, relating to school bonds.
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STATE CAPITOL BUILDING

163.....	AN ACT entitled an act relating to the creation of a state capitol commission to provide for the erection of a building for capitol purposes on block twenty-one (21) in the Fourth (4th) Railway Addition to the town, now city of Pierre, in the county of Hughes, state of South Dakota, and to provide funds for that purpose.
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STATE LIBRARY

164.....	AN ACT entitled an act defining the state library and providing for its custody and care.
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STATE AUDITOR

165.....	AN ACT to amend section 77 of Article 4 of Chapter 3 of the Revised Political Code of 1903, relating to the duties of state auditor.
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STATE TREASURER

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| 166..... | AN ACT to amend section 313 of the Political Code of 1903, relating to payment of moneys into the state treasury. |
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SUPREME COURT REPORTS

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| 167..... | AN ACT entitled an act relating to the exchange of the supreme court reports of South Dakota for the supreme court reports of other states for the library of the college of law of the state university. |
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SWINDLING

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| 168..... | AN ACT entitled an act defining the crime of swindling and the confidence game, prescribing the form of indictment and the punishment for such crimes. |
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TOWNS

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| 169..... | AN ACT to amend section 1418 of the Revised Political Code of South Dakota of 1903, relating to the incorporation of towns. |
| 170..... | AN ACT to amend sections 1431, 1432 and 1455 of Chapter 15 of the Revised Political Code of 1903 of the state of South Dakota, relating to town officers. |

TOWN TREASURER

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| 171..... | AN ACT to amend section 1452 of the Revised Political Code of South Dakota, relating to the duties of the town treasurer, and fixing the date of the settlement with the town treasurer. |
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TWINE FACTORY

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| 172..... | AN ACT entitled an act to establish and install a twine and cordage plant and a shirt and overall factory at the state penitentiary, for the purpose of employment of the convicts of such state penitentiary, appropriating moneys for the construction of such twine and cordage plant and shirt and overall factory, and prescribing the manner of disposition and sale of the twine. |
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WATERWORKS

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| 173..... | AN ACT entitled an act to legalize the construction of a system or part of system of waterworks heretofore constructed by any city or municipality in this state, and to authorize said city or municipality to use the same, and also to legalize any bonds issued therefor. |
| 174..... | AN ACT entitled an act to authorize cities to purchase and acquire by condemnation private property within and without the corporate limits thereof, for the purpose of establishing, constructing, maintaining and operating a system of waterworks for domestic and other uses of the city and its inhabitants. |

WATERWORKS—Concluded

175.....	AN ACT entitled an act amending sections 2, 3 and 4 of Senate Bill No. 31, approved January 24, 1905, being "For an act entitled an act to authorize cities to purchase and acquire by condemnation private property within and without the corporate limits thereof, for the purpose of establishing, constructing, maintaining and operating a systsem of waterworks for domestic and other uses of the city and its inhabitants.
176.....	AN ACT entitled an act to empower cities of the first class to sell, lease or otherwise dispose of any system or part of a system of waterworks constructed and owned by such city.

WOLF BOUNTY

177.....	AN ACT entitled an act amending sections 3113, 3114, 3115 and 3121 of the Political Code of 1903, providing amount of bounty, how obtained, duty of commissioners, and amount of appropriation for the payment of bounty on wolves.
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AUTHENTICATION

STATE OF SOUTH DAKOTA }
Department of State } ss.

I, D. D. Wipf, Secretary of State of the state of South Dakota, do hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills and joint resolutions proposing amendments to the constitution, passed by the legislature of this state at the ninth session thereof, begun and held at Pierre, January 3d, A. D. 1905, and concluded March 3d, A. D. 1905, as approved by the governor, or which became law by virtue of the limitation of section 9, Article 4 of the constitution of this state, and now on file in this office, with the exceptions of corrections of certain obvious errors, which corrections appear enclosed in brackets.

In witness whereof, I have hereunto set my hand and affixed the great seal of the state of South Dakota, at Pierre, this 25th day of March, A. D. 1905.

[SEAL]

D. D. WIPF,
Secretary of State.

THE LAWS

ACKNOWLEDGMENTS

CHAPTER 1

(S. B. 204)

RELATING TO ACKNOWLEDGMENTS

AN ACT Entitled an Act Regulating the Execution and Acknowledgment of Deeds and Other Instruments by Corporations, and Legalizing Acknowledgments Heretofore Made by Corporations.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That any officer of a corporation, authorized thereto by the charter or articles of incorporation, the by-laws, or by the consent of the stockholders or of the board of directors of such corporation, may execute deeds and other instruments in the name of such corporation and acknowledge the same on behalf of such corporation.

§ 2. The corporate seal of any corporation attached to a deed or other instrument executed and acknowledged by any officer of such corporation shall be prima facie evidence that such officer was duly authorized to execute such instrument on behalf of such corporation.

§ 3. All deeds and other instruments heretofore executed and acknowledged by any officer of a corporation, and which are executed and acknowledged in accordance with the provisions of this act, and which would be valid if hereafter executed, are hereby declared to

be legal and valid for all purposes, notwithstanding the fact that the same may not have been executed or acknowledged by an officer of a corporation heretofore authorized to acknowledge instruments on behalf of a corporation.

§ 4. All acts or parts of acts in conflict herewith are hereby repealed.

§ 5. An emergency is hereby declared to exist, and this act shall be in effect from and after its passage and approval.

Approved March 10, 1905.

ACTS LEGALIZED

CHAPTER 2

(S. B. 16)

LEGALIZING CERTAIN ACTS

AN ACT to Legalize the Acts of the Boards of County Commissioners of Any County, the City Council of Any City, the Trustees of Any Town, or the Township Board of Supervisors of Any Township, in Receiving License and Permitting Any Person, Firm or Corporation to Sell Intoxicating Liquors in Any Township, Town or City in the State of South Dakota, Previous to January 21, 1905, in Which the Question of Granting Permits to Sell Intoxicating Liquors had not been Submitted to the Legal Voters of Said Township, Town or City.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That the acts of the boards of county commissioners of any county, the city council of any city, the trustees of any town, or the township board of supervisors of any township, in the state of South Dakota, previous to January 21, 1905, in receiving license or permitting any county, person, firm or corporation to sell intoxicating liquors within any township, town or city, in which said county, township, town or city, prior to the receiving of said license or issuing the permit to sell intoxicating liquors, the question of granting

permits to sell intoxicating liquors at retail within the corporate limits of such county, township, town or city, had not been submitted to the legal voters thereof as required by section 2856 of the Political Code of the state of South Dakota, are hereby legalized and made valid.

§ 2. An emergency is hereby declared to exist and this act shall take effect from and after its passage and approval.

Approved January 31, 1905.

CHAPTER 3

LEGALIZING ACTS OF BOARDS OF EQUALIZATION

(S. B. 129)

AN ACT to Validate Chapter 65, Session Laws of 1903, and All Original Assessments and Proceedings by the Different Boards of Equalization Thereunder, and to Legalize the Same.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Chapter 65, Session Laws of 1903, notwithstanding the restrictive title thereof, and also all original tax levies made under the provisions of said law, are hereby declared to all intent and purposes to be valid and binding; and such law and all proceedings thereunder are hereby declared to be legal, valid and binding, and are in all things legalized.

§ 2. Whereas, an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 28, 1905.

CHAPTER 4

(H. B. 91)

LEGALIZING TRANSFER OF REAL PROPERTY BY GUARDIANS

AN ACT Entitled an Act to Legalize the Transfer of Real Property by Guardians in Certain Cases.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. When the real property has been heretofore allotted to any person under the provisions of the statutes of the United States

and a guardian has sold and conveyed by deed all the right, title and interest of his ward in and to such real property, upon order of the county court, as provided by section 402 of the Probate Code, and such deed has been approved by the department of the interior and delivered, all such deeds are hereby ratified and made legal and shall convey and vest in the grantee made therein all the right, title and interest of such ward in and to such real property.

§ 2. An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

§ 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 7, 1905.

CHAPTER 5

(H. B. 154)

LEGALIZING THE RECORDING OF CERTAIN PATENTS AND CONTRACTS

AN ACT Entitled an Act to Legalize the Recording of Patents and Contracts Issued by the State of South Dakota Prior to February 12, 1905.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That the acts of the several registers of deeds in receiving and recording patents and contracts on school and endowment lands issued by the office of the commissioner of school and public lands prior to the twelfth day of February, 1905, be and the same are hereby declared to be legal, anything in the laws of the state of South Dakota to the contrary notwithstanding.

Approved March 7, 1905.

CHAPTER 6

(H. B. 55)

LEGALIZING ACTS OF COUNTY COURTS IN CERTAIN CASES

AN ACT Entitled an Act to Legalize the Order Dispensing With the Regular Administration, Findings of Fact and Final Decree of Distribution of the County Court, Made Under the Provisions of Chapter 113, Session Laws 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That in any county court, when a petition for the appointment of an administrator has heretofore been filed and pre-

sented and notice of said hearing has been given, as provided by section 88 of the Probate Code, and the court without further notice has ordered that the regular administration be dispensed with, the said order and the findings of fact and final decree of distribution made and filed in such estate is hereby validated, legalized and declared to be of the same force and effect as if notice had been given as provided by Chapter 113, Session Laws, 1903.

§ 2. An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1905.

CHAPTER 7

(S. B. 194)

LEGALIZING CERTAIN ORDINANCES NOT REGULARLY RECORDED

AN ACT Entitled an Act Legalizing the Ordinances of City Councils and Board of Trustees of Towns and Villages in Cases in Which the Same were not Regularly Recorded.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Legalization] In all cases where the council of any city or the board of trustees of any town or village situated in this state has duly passed and caused to be published any ordinance or ordinances prior to the first day of January in the year one thousand nine hundred and five, and which ordinance or ordinances were not at such time or times recorded in the proper book or record of ordinances, such ordinance or ordinances, when so recorded in the proper book or record, shall be deemed valid and are hereby legalized and shall be of the same force and effect as though recorded at the time of the passage and publication thereof.

Approved March 8, 1905.

AGRICULTURAL COLLEGE

CHAPTER 8

(S. B. 177)

RELATING TO DUTIES OF THE FACULTY OF THE AGRICULTURAL COLLEGE

AN ACT Entitled an Act to Make it the Duty of the Faculty of the State Agricultural College at Brookings to Make an Exhibit Annually at the State Fair.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That it shall be the duty of the faculty of the agricultural college of the state of South Dakota at Brookings, every year make an exhibit at the state fair of South Dakota of its live stock, agricultural and horticultural products, produced or owned at the agricultural college; which in the judgment of the president are proper and suitable to be exhibited at said fair; and that at least one of the professors of animal husbandry, and one of the professors in the agricultural and horticultural department, and other professors, if in the judgment of the president they are deemed necessary or useful, shall attend the said state fair in person with said exhibits, and there give such information to the people of the state there assembled as can conveniently and properly be given, in relation to the care, cultivation and growth of said exhibits, for at least four days of said fair.

§ 2. The actual expenses of the freight and drayage of taking the articles exhibited to and from the state fair, shall be paid out of the general fund of the state, on vouchers rendered according to law by the professors designated by the president of the college to attend; and the sum of fifty dollars, or so much thereof as may be necessary, is hereby appropriated annually therefor.

Approved March 1, 1905.

APPROPRIATIONS

CHAPTER 9

(H. B. 211)

GENERAL APPROPRIATION BILL

AN ACT Entitled an Act Providing for an Appropriation for the Expenses of the Executive and Judicial Departments of the State, Interest on Public Debt, and for the Current Expenses of all the State Officers and Institutions of the State of South Dakota, for the Fiscal Years of 1905 and 1906, and Insurance on Public Buildings.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] That there is hereby appropriated the following sums of money, or so much thereof as may be necessary, out of any money in the state treasury not otherwise appropriated, for the purpose of paying the expenses of the executive and judicial departments of the state, interest on the public debt, and for current expenses of the state officers and institutions of the state of South Dakota, as hereinafter mentioned, for the fiscal years 1905 and 1906, viz: Office expenses per annum and the salaries of the governor, secretary of state, auditor, treasurer, commissioner of school and public lands, attorney general, supreme court, superintendent of public instruction, inspector of mines, public examiner, state veterinary surgeon, interest on public debt, maintenance of state house, university of South Dakota at Vermillion, normal school at Madison, normal school at Spearfish, normal school at Springfield, reform school at Plankinton, agricultural college at Brookings, school of mines at Rapid City, school for deaf mutes at Sioux Falls, South Dakota blind asylum at Gary, penitentiary at Sioux Falls, hospital for insane at Yankton, soldiers' home at Hot Springs, state board of charities and corrections, state board of regents, state board of health, state board of medical examiners, state board of agriculture, state board of pharmacy, railroad commissioners, compensation of clerks in land offices, burial of deceased soldiers and sailors, conveyance of convicts, salary of adjutant general and maintenance of state militia and national guard, insurance commissioner's office, insurance on public buildings, northern hospital for insane at Redfield, state historical society, northern normal and industrial school

at Aberdeen, woman's committee of investigation, and state firemen's tournament.

§ 2. Salaries of Executive and Judicial Officers]

	1905	1906
For salary of governor.....	\$ 3,000	\$ 3,000
For salary of secretary of state.....	1,800	1,800
For salary of auditor.....	1,800	1,800
For salary of treasurer.....	1,800	1,800
For salary of commissioner of school and public lands	1,800	1,800
For salary of superintendent of public instruction....	1,800	1,800
For salary of attorney general.....	1,000	1,000
For salary of supreme judges, at \$3,000 each.....	9,000	9,000
For salary of nine circuit judges, at \$2,500 each.....	22,500	22,500
	<u>\$44,500</u>	<u>\$44,500</u>

§ 3. Expenses of Executive and Judicial Officers]

First—Governor's office—

For salary of private secretary.....	\$1,500	\$1,500
For stationery, office supplies, incidentals and stenographer	1,500	1,500
For contingent fund.....	1,400	1,400
	<u>\$4,400</u>	<u>\$4,400</u>

Second—Secretary of state's office—

Salary of assistants, clerks and stenographer.....	\$5,600	\$5,600
For stationery, office supplies and incidentals.....	1,800	1,800
	<u>\$7,400</u>	<u>\$7,400</u>

Third—Auditor's office—

For salary deputy and clerk hire.....	\$3,460	\$3,460
For stationery, incidentals, traveling expenses, board of school and public lands, and state board of equalization work	1,450	1,450
	<u>\$4,910</u>	<u>\$4,910</u>

Fourth—Treasurer's office—

For salary deputy and stenographer.....	\$2,700	\$2,700
For stationery, office supplies and incidentals.....	1,200	1,200
	<u>\$3,900</u>	<u>\$3,900</u>

Fifth—Attorney general's office—

	1905	1906
For salary of assistant.....	\$1,500	\$1,500
For clerk hire and expenses.....	3,400	3,400
For stationery, office supplies and incidentals.....	1,000	1,000
	<u>\$5,900</u>	<u>\$5,900</u>

Sixth—Commissioner of school and public lands—

For salary deputy, clerk hire and stenographer....	\$ 8,400	\$ 8,400
For stationery, office supplies and all other expenses	5,300	5,300
For advertising	1,250	1,250
	<u>\$14,950</u>	<u>\$14,950</u>

Seventh—Superintendent of public instruction's office—

For deputy and stenographer.....	\$2,100	\$2,100
For stationery, blanks, expense of examining board, and office supplies.....	3,000	3,000
For traveling expenses.....	500	500
For descriptive book catalogue.....	700	
	<u>\$6,300</u>	<u>\$5,600</u>

Eighth—Supreme court—

For salary of marshal and librarian.....	\$1,200	\$1,200
For stenographer for each judge, at \$600.....	1,800	1,800
For stationery, blank books and incidentals.....	1,000	1,000
For law books.....	500	500
For expense of disbarment proceedings.....	250	250
For publishing reports.....	995	995
For salary and expenses of reporter.....	950	950
	<u>\$6,695</u>	<u>\$6,695</u>

§ 4. Maintenance of State House]

For maintenance, fuel, lights, janitor work, repairs and insurance	\$5,440	\$4,820
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§ 5. Insurance Commissioner's Office]

For salary of commissioner	\$1,200	\$1,200
For clerk hire and stenographer.....	1,600	1,600
For stationery, office supplies and fixtures.....	1,350	1,000
	<u>\$4,150</u>	<u>\$3,800</u>

§ 6. Public Examiner's Office]

	1905	1906
For salary of public examiner.....	\$1,500	\$1,500
For salary of two deputies and clerk.....	3,900	3,900
For stationery, office supplies and incidentals.....	3,600	3,600
	<u>\$9,000</u>	<u>\$9,000</u>

§ 7 Food and Dairy Commissioner's Office]

For salary of commissioner.....	\$1,200	\$1,200
For salary of inspectors and office clerk.....	1,600	1,600
For stationery, office supplies and other expenses...	2,200	2,200
	<u>\$5,000</u>	<u>\$5,000</u>

§ 8. Mine Inspector's Office]

For salary	\$1,200	\$1,200
For expenses	750	750
	<u>\$1,950</u>	<u>\$1,950</u>

§ 9. State Veterinary Surgeon's Office]

For salary	\$1,500	\$1,500
For expenses	600	600
	<u>\$2,100</u>	<u>\$2,100</u>

§ 10. South Dakota National Guard]

For salary of adjutant general.....	\$ 1,500	\$ 1,500
For maintenance of state militia and national guard..	13,000	13,000
	<u>\$14,500</u>	<u>\$14,500</u>

§ 11. State Board of Charities and Corrections]

For salaries	\$6,000	\$6,000
For expenses members of board.....	1,000	1,000
	<u>\$7,000</u>	<u>\$7,000</u>

§ 12. State Board of Health]

For per diem and expenses.....	\$500	\$500
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§ 13. State Board of Pharmacy]		
	1905	1906
For stationery, supplies and printing.....	\$300	\$300
§ 14. State Board of Regents]		
For salary of regents.....	\$5,000	\$5,000
For expenses of regents.....	1,500	1,500
For salary and expenses of secretary and stenographer	1,500	1,500
For office expenses, postage and stationery.....	250	250
	<u>\$8,250</u>	<u>\$8,250</u>
§ 15. State Board of Agriculture]		
For per diem, mileage and expense.....	\$750	\$750
§ 16. State Board of Medical Examiners]		
For salary of secretary.....	\$ 800	\$ 800
For per diem, mileage and expense of members.....	1,200	1,200
	<u>\$2,000</u>	<u>\$2,000</u>
§ 17. State Board of Railroad Commissioners]		
For salary of commissioners.....	\$ 4,500	\$4,500
For expenses of commissioners and secretary.....	1,000	1,000
For salary of secretary.....	1,200	1,200
For clerical expenses and incidentals.....	1,250	1,250
For warehouse and scale inspection.....	1,300	1,300
For litigation fund, to be used as necessary in whole or in part during the fiscal years of 1905 and 1906	2,400	.
	<u>\$11,650</u>	<u>\$9,250</u>
§ 18. State Historical Society]		
For secretary's salary.....	\$1,400	\$1,400
For curator's salary.....	720	720
For incidental expenses in historical and statistical research, library, museum, office supplies and clerk hire	1,400	1,400
	<u>\$3,520</u>	<u>\$3,520</u>
§ 19. United States Land Office Fees]		
For payment of U. S. land office fees for lists of taxable lands	\$375	\$375

§ 20. Burial of Soldiers and Sailors]		
	1905	1906
For burial of soldiers and sailors.....	\$2,500	\$2,500
§ 21. Conveyance of Convicts]		
For conveyance of convicts to the penitentiary.....	\$4,000	\$4,000
§ 22. School for Blind]		
For maintenance, repairs and improvements.....	\$8,500	\$8,500
§ 23. Reform School]		
For salaries officers and employes.....		\$ 7,760
For maintenance, repairs and improvements.....	\$18,000	18,500
	<u>\$18,000</u>	<u>\$26,260</u>
§ 24. School for Deaf Mutes]		
For salaries officers and employes.....		\$ 5,500
For maintenance and repairs.....	\$9,000	9,000
	<u>\$9,000</u>	<u>\$14,500</u>
§ 25. Northern Hospital for Insane]		
For salaries officers and employes.....	\$ 9,000	\$ 9,000
For maintenance	18,000	20,000
For improvements and repairs.....	6,000	3,000
	<u>\$33,000</u>	<u>\$32,000</u>
§ 26. South Dakota Penitentiary]		
For salaries officers and employes.....	\$18,000	\$18,000
For maintenance	32,000	34,000
For stone quarry and cutting stone.....	2,000	2,000
	<u>\$52,000</u>	<u>\$54,000</u>
§ 27. Hospital for Insane]		
For salaries officers and employes.....	\$ 43,000	\$ 43,000
For maintenance	80,000	85,000
	<u>\$123,000</u>	<u>\$128,000</u>

§ 28. Soldiers' Home]

	1905	1906
For salaries officers and employes.....	\$11,070	\$11,070
For maintenance	29,000	28,000
For expenses and per diem of commissioners.....	1,800	1,800
	<u>\$41,870</u>	<u>\$40,870</u>

§ 29. South Dakota University]

For salaries president and teachers.....	\$40,000	\$40,000
For maintenance and repairs.....	12,000	12,000
For law and general library:.....	1,500	1,500
For general laboratory, biology, geology and museum	1,500	1,250
For engineering	5,000	
	<u>\$60,000</u>	<u>\$54,750</u>

§ 30. Agricultural College]

For salaries president and teachers.....	\$13,000	\$13,000
For maintenance, library and repairs.....	18,200	17,700
For farm expenses and purchase of stock.....	3,000	3,000
For Highmore sub-station.....	1,200	1,200
For furnishing horticultural and engineering building	800	
	<u>\$36,200</u>	<u>\$34,900</u>

§ 31. School of Mines]

For salaries president and teachers.....	\$15,000	\$15,000
For maintenance, library and repairs.....	9,250	8,750
For field exploration.....	1,000	1,000
For renovation of metallurgical laboratory and purchase of machinery.....	4,000	
For equipment of shops.....	1,000	
For extension of heating plant.....	3,000	
	<u>\$33,250</u>	<u>\$24,750</u>

§ 32. Madison Normal School]

For salaries president and teachers.....	\$15,000	\$15,000
For maintenance, library and repairs.....	10,200	7,000
	<u>\$25,200</u>	<u>\$22,000</u>

§ 33. Spearfish Normal School]		
	1905	1906
For salaries president and teachers.....	\$14,000	\$14,000
For maintenance, repairs and furnishing new building	11,600	5,200
	<u>\$25,600</u>	<u>\$19,200</u>
§ 33½. Springfield State Normal School]		
For salaries of president, teachers and employes....	\$ 9,000	\$ 9,000
For maintenance, fuel, lights, repairs and furnishings	4,000	4,000
	<u>\$13,000</u>	<u>\$13,000</u>
§ 34. Northern Normal and Industrial School]		
For salaries president and teachers.....	\$15,000	\$15,000
For maintenance, library and repairs.....	7,100	6,900
	<u>\$22,100</u>	<u>\$21,900</u>
§ 35. Insurance on public buildings, erected and in course of erection, to be expended under direction of board of regents.....		
	\$6,900	\$500
§ 36. For insurance on public buildings, erected and in course of erection, to be expended under the direction of the board of charities and corrections.....		
	\$8,000	\$2,000
§ 37. For insurance on public buildings, erected and in course of erection, to be expended under the direction of the commissioners of the soldiers' home...		
	\$1,350	
§ 38. Woman's Committee of Investigation]		
For per diem, mileage and expenses.....	\$500	\$500
§ 39. State Firemen's Tournament]		
For holding annual tournament.....	\$1,000	\$1,000
§ 40. Bonded Indebtedness]		
For payment of interest on outstanding bonds payable from the bond interest and sinking fund...	\$10,000	\$10,000
§ 41. Duty of State Auditor] All amounts herein appropriated shall be used for the specific purposes herein mentioned, and no other, and the state auditor shall issue his warrants on certified		

itemized vouchers and proofs filed in his office, except that all items of appropriations for salaries and compensation for state and judicial officers, deputies, clerks and employes thereof, and the item of contingent fund for the executive office, shall be payable in equal monthly installments, on certified vouchers being filed in the office by the person or department entitled to the same.

§ 42. Repeal] All acts and parts of acts in conflict with the provisions of this act are hereby repealed, and the state auditor shall issue no warrants in excess of the appropriation made herewith, or to state institutions, state officers or boards, whether appointed or elected, except as provided by the provisions of this act or may hereafter be provided by law.

Approved March 4, 1905.

CHAPTER 10

(H. B. 27)

APPROPRIATION FOR MILEAGE, PER DIEM AND SALARIES OF MEMBERS AND EMPLOYES OF THE LEGISLATURE

AN ACT APPROPRIATING Money for the Per Diem, Mileage and Salaries of the President and Members of the Senate and House of Representatives of the Ninth Legislature of the State of South Dakota, and for the Per Diem and Mileage of the Retiring Secretary of the Senate and the Temporary Chief Clerk of the House of Representatives, and for the Per Diem of the Sub-employes of Both Branches of the Legislature.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] That there is hereby appropriated out of the general fund of the state the following sums of money, or so much thereof as may be necessary for the purpose of paying the per diem, mileage and salaries of the president and members of the senate and the members of the house of representatives of the ninth legislature of the state of South Dakota, and for the per diem and mileage of the retiring secretary of the senate and the chief clerk of the house of representatives, and the per diem of the subordinate employes of both branches of the legislature, to-wit:

For the per diem of the president of the senate.....	\$ 600.00
Mileage of the president of the senate.....	49.80
Per diem of the members of the senate.....	13,500.00
Mileage of members of the senate.....	1,279.70
Officers and employes of the senate.....	9,500.00
For the per diem of the members of the house.....	26,720.00
Mileage of the members of the house.....	2,719.95
For per diem of employes of the house.....	9,000.00
To J. F. Armstrong for services and expenses of opening the session in the senate, 1905.....	30.25
J. S. Johnson, for services and expenses of opening the session of the house, 1905.....	26.10
Indexing, comparing, correcting and writing the journal of the senate in permanent form and furnishing the same to the printer.....	900.00
Indexing, comparing, correcting and writing the journal of the house in permanent form and furnishing the same to the printer.....	900.00
§ 2. Emergency] An emergency is hereby declared to exist, and this act shall be in force and effect on and after its passage and approval.	
Approved January 21, 1905.	

CHAPTER 11

(S. B. 191)

APPROPRIATION FOR PUBLIC PRINTING

AN ACT to appropriate Money for Printing and Binding Reports of State Officers and Boards for the Fiscal Years of 1904, 1905 and 1906, Printing and Binding Daily and Permanent Journals, House and Senate Bills for the Ninth Legislative Assembly of the State of South Dakota, and for Such Other Printing as May be Ordered by the Ninth Legislative Assembly of the State of South Dakota, Printing and Binding Session Laws, Binding Public Documents, and Expense of Distributing Such Documents and Supreme Court Reports.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] There is hereby appropriated out of the general fund of the state of South Dakota the sum of forty thousand three hundred dollars (\$40,300), or so much thereof as may be necessary, for the purpose of printing and binding the reports of state officers and boards for the fiscal years of 1904, 1905 and 1906, print-

ing and binding daily and permanent journals, house and senate bills of the ninth legislative assembly of the state of South Dakota, and for such other printing as may be ordered by the said ninth legislative assembly, printing and binding session laws, and binding public documents.

§ 2. Appropriation] There is also appropriated out of the general fund of the state of South Dakota for the fiscal years of 1905 and 1906 the sum of seven hundred dollars, for the expenses of distributing session laws, legislative journals, public documents and the supreme court reports.

§ 3. Duty of Auditor] The state auditor shall draw warrants to pay such expenditures as may be certified to be correct by the commissioner of printing due on any contract with this state for any printing or binding herein enumerated, and for any necessary expense incurred in the distribution of supreme court and official reports, session laws and legislative journals, public documents and any other publications ordered by the ninth session of the legislature of the state of South Dakota.

§ 4. Emergency] Whereas, an emergency exists, this act shall be in force and effect from and after its passage and approval.

Approved March 4, 1905.

CHAPTER 12

(S. B. 138)

APPROPRIATION FOR LIVE STOCK BUILDING

AN ACT to appropriate Money for the Purpose of Erecting and Equipping a Building to Promote the Interests of the Breeding of Live Stock and Poultry and to Improve Cereal Grains and Forage Plants in the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] That there is hereby appropriated out of the general fund of the state not otherwise appropriated, the sum of five thousand dollars (\$5,000) to pay the expenses of erecting and equipping a suitable building within the city of Mitchell, Davison county, South Dakota, upon a site to be selected by the commission hereinafter appointed and constituted, for the purpose of providing a place for the meetings, exhibitions and sales of live stock, poultry, cereal grains and forage plants under the auspices of the South Dakota Live Stock and Poultry Breeders Association.

Provided, that before such sum or any part thereof shall be expended an unincumbered title in fee simple to the site selected by said commission shall be conveyed to the state of South Dakota.

Provided, further, that no part of the sum appropriated by this act shall be used for the purchase of a site for said building, this appropriation being made by the state upon the express understanding that the site for said building shall be donated to the state free of expense.

§ 2. Appointment of Commission] That a commission, consisting of Prof. J. W. Wilson of Brookings county, Charles F. Raymond of Davison county, P. F. Wickham of Hanson county, L. A. Larson of Clay county, and Frank Cronk of Spink county, is hereby appointed and constituted for the purpose of expending the said sum herein appropriated, in the designing, erecting and equipping of said building.

Provided, that in case a vacancy occurs in said commission by resignation or death of any member of said commission, the vacancy shall be filled by appointment by the governor of this state, the person or persons so appointed by the governor to be first nominated by the remaining members of said commission.

Provided, that a majority number of said commission shall have the power to transact the business of said commission.

Provided, further, that said commission shall receive no compensation for services rendered under the provisions of this act.

§ 3. Completion of Building] That said building shall be completed and equipped on or before January 1, 1906, and that after said building is erected and equipped the same shall be permanently used, free of charge, by the South Dakota Live Stock and Poultry Breeders Association, for their exclusive use and benefit, and under the management of said association.

Provided, that the state shall not be liable for any expense in maintaining and managing said building after the same has been erected and equipped.

§ 4. Duties of Auditor and Treasurer] The state auditor shall issue warrants for the payment of the expenses incurred by said commission in the erection and equipment of said building, on certified, itemized vouchers by said commission, and the state treasurer shall pay the same.

Approved March 3, 1905.

CHAPTER 13

(S. B. 67)

APPROPRIATION FOR UNITED STATES LAND OFFICE FEES

AN ACT to Appropriate Money to Pay United States Land Office Filing Fees on Selection of Endowment and Indemnity Lands.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] That there is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of five hundred dollars to pay the United States land office filing fees on selections of land granted by congress to the state of South Dakota for endowment purposes, and on selections of indemnity land in lieu of losses of common school lands arising from Indian allotments and other causes.

§ 2. Duty of Auditor and Treasurer] That the state auditor is hereby authorized and directed to issue warrants upon the above appropriation upon itemized statements approved by the commissioner of school and public lands, and the state treasurer is authorized to pay the same.

Approved March 4, 1905.

CHAPTER 14

(S. B. 88)

APPROPRIATION FOR BOARD OF MEDICAL EXAMINERS

AN ACT Entitled an Act to Appropriate Money to Pay the Salary of the Secretary of the Board of Medical Examiners, and the Per Diem, Mileage and Expenses of Members and the Incidental Expenses of Said Board from February 15, 1905, to June 30, 1905.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] That there is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, for the purpose of paying the salary of the secretary of the board of medical examiners from February 15, 1905, to the end of the present fiscal year, June 30, 1905, three hundred dollars (\$300), and for the per diem, mileage and expenses of the members of the board from

February 15, 1905, to the end of the present fiscal year, June 30, 1905, four hundred dollars (\$400).

§ 2. Emergency] There being no appropriation for paying salary of the secretary of the board and the per diem, mileage and expense of the members of the board from February 15, 1905, to the end of the fiscal year, June 30, 1905, an emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 4, 1905.

CHAPTER 15

(S. B. 110)

APPROPRIATION FOR CONVEYANCE OF CONVICTS

AN ACT Entitled an Act to appropriate Money for a Deficiency in the Fund Conveying Convicts to the State Penitentiary.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] That there be and is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of forty-three dollars and fourteen cents (\$43.14) for the payment of O. W. Henry for conveying convicts to the state penitentiary during the year 1902.

§ 2. Duty of Auditor] The state auditor shall issue warrants for the aforesaid sum, on properly itemized bills, as provided by law.

Approved March 4, 1905.

CHAPTER 16

(S. B. 214)

APPROPRIATION FOR STATE BOARD OF EQUALIZATION

AN ACT Appropriating Money for the Use of the State Board of Equalization.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. There is hereby appropriated annually out of any money in the general fund of the state treasury, not otherwise appropriated,

the sum of five hundred dollars, or so much thereof as may be needed, for the use of the state board of equalization, to be expended under the direction of the governor and auditor.

Whereas, there is no appropriation for this purpose, therefore this act shall take effect and be in force on and after its passage and approval.

Approved March 6, 1905.

CHAPTER 17

(S. B. 145)

APPROPRIATION FOR WALCH & WYETH

AN ACT to Appropriate Money to Pay for Labor and Material Furnished the South Dakota Hospital for the Insane, at Yankton, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That there be, and there is, hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of \$383.91, or so much thereof as the board of charities and corrections may find due Walch & Wyeth, in full settlement of their claim for material and labor furnished the South Dakota hospital for the insane at Yankton, South Dakota, in 1899.

§ 2. It shall be the duty of the state auditor to issue a warrant for funds so appropriated, upon proper certified vouchers which have been approved by the board of charities and corrections, and, whereas, an emergency exists, this act shall take effect immediately after its passage and approval.

Approved March 6, 1905.

CHAPTER 18

(S. B. 203)

APPROPRIATION FOR THE AGRICULTURAL COLLEGE

AN ACT Entitled an Act Authorizing and Directing the Purchase of a Farm for the South Dakota Agricultural College and Experiment Station, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That the regents of education of the state of South Dakota are hereby authorized and directed to purchase for the use and

benefit of the South Dakota agricultural college and experiment station at Brookings the following described farm, situated in the county of Brookings and state of South Dakota, to-wit: The north-west quarter of section twenty-four (24), in township one hundred ten (110) north, of range fifty (50) west of the fifth principal meridian, and to pay therefor the consideration of sixteen thousand dollars (\$16,000).

§ 2. That the title to said premises shall be conveyed in fee simple to the state of South Dakota by warranty deed, free from encumbrances, for the purposes and uses above mentioned.

§ 3. There is hereby appropriated out of the moneys of the state treasury, not otherwise appropriated, the sum of sixteen thousand dollars (\$16,000), to be used for the purpose of purchasing said premises as aforesaid, and the state auditor, upon the delivery of such deed conveying said premises as aforesaid and an abstract of title showing the title of said premises to be good and free from encumbrance, is hereby authorized and directed to draw a warrant on the state treasurer for said sum in payment of the purchase price of said premises.

Approved March 6, 1905.

CHAPTER 19

(H. B. 155)

APPROPRIATION FOR NORTHERN HOSPITAL FOR INSANE

AN ACT Entitled an Act to Appropriate Money to Put Down an Artesian Well for the Northern Hospital for the Insane, at Redfield, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation for Artesian Well] That there is hereby appropriated out of the moneys in the state treasury, not otherwise appropriated, the sum of three thousand dollars, or so much thereof as may be necessary, for the putting down and completing of a six-inch artesian well, to be used for water and power purposes for the Northern Hospital for the Insane.

§ 2. Contract and Construction] That the putting down and completion of said artesian well, provided for in this act shall be under the control and management of the board of charities and corrections of South Dakota, and shall be put down upon the grounds of the said Northern Hospital for the Insane at Redfield, South Dakota, by contract, after duly advertising for bids, and shall be completed as speedily as possible.

§ 3. Duty of State Auditor] It shall be the duty of the state auditor to draw his warrants on the state treasurer for the amount provided in this act, upon receiving properly certified and itemized vouchers from said board of charities and corrections, and upon presentation of such warrants the state treasurer shall pay the same.

§ 4. Emergency] Because of the fact that said institution is dependent upon one well for its entire water supply, an emergency is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved March 7, 1905.

CHAPTER 20

(S. B. 143)

APPROPRIATION FOR HOSPITAL FOR INSANE AT YANKTON

AN ACT to appropriate Money for a New Building and for Other Improvements at the Hospital for the Insane at Yankton, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation for an Infirmary Building for Women] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary, for the construction and erection of an infirmary building for women at the hospital for the insane at Yankton, South Dakota.

§ 2. Appropriation for Additions to Heating and Power Plant] There is hereby appropriated out any moneys in the state treasury, not otherwise appropriated, the sum of six thousand dollars (\$6,000), or so much thereof as may be necessary, for improvements at the heating and power plant of the hospital for the insane at Yankton, South Dakota.

§ 3. Appropriation for Finishing and Furnishing the Infirmary Building] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of seven thousand dollars (\$7,000), or so much thereof as may be necessary, for finishing and furnishing the infirmary building at the hospital for the insane at Yankton, South Dakota.

§ 4. Appropriation for a Tool House and Root Cellar] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of two thousand five hundred dollars (\$2,500), or so much thereof as may be necessary, for the con-

struction and erection of a tool house and root cellar at the hospital for the insane at Yankton, South Dakota.

§ 5. Board of Charities and Corrections to Have Supervision] All of the improvements and expenditures of moneys provided for in the foregoing sections shall be under the supervisions of the board of charities and corrections, and the state auditor shall issue warrants on the state treasurer in payment for such buildings and improvements, upon properly itemized and certified vouchers from the said board, and upon presentation of said warrants the state treasurer shall pay the same.

Approved March 7, 1905.

CHAPTER 21

(S. B. 175)

APPROPRIATION FOR THE SOLDIERS' HOME

AN ACT to Appropriate Money to Repair and Improve the South Dakota Soldiers' Home at Hot Springs, South Dakota, and to Build Four Cottages Thereat.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. There is hereby appropriated out of any moneys in the general fund of the treasury of this state, not otherwise appropriated, the sum of fifteen thousand six hundred nine dollars and ninety-six cents (\$15,609.96) or so much thereof as shall be necessary, to repair and improve the South Dakota Soldiers' Home at Hot Springs, South Dakota, by putting a new roof on the main building, by putting a new floor in said building and in the wards of the hospital, by replastering said main building, by extending the eaves and respouting the cornices and gutters thereof, by remodeling the closets and lavatories and putting new fixtures therein, and replumbing the buildings of said home, and by making such other repairs and improvements as may be necessary. And also the further sum of three thousand dollars (\$3,000), or so much thereof as shall be necessary, to construct and complete four cottages to be used in connection with said home.

§ 2. The said repairs and improvements shall be made under the supervision of the board of commissioners of said home by contracts to be let to the lowest and best responsible bidders, as soon as practical after the passage and approval of this act. And that the state auditor shall issue warrants upon the state treasurer in payment of said repairs and improvements, and for said cottages, upon properly certified vouchers, approved by said board of com-

missioners; and upon presentation of said warrants said treasurer shall pay the same.

§ 3. Whereas, the above repairs and improvements are badly needed and the work should begin as early as possible, an emergency exists, and is hereby declared to exist, and this act shall be in force and take effect from and after its passage and approval.

Approved March 6, 1905.

CHAPTER 22

(S. B. 34)

APPROPRIATION FOR THE STATE FAIR AT HURON

AN ACT Making Appropriation for Improvements for the State Fair at Huron.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That there is hereby appropriated for building an agricultural and horticultural hall on the state fair grounds at Huron, South Dakota, the sum of five thousand dollars.....	\$ 5,000
Also, for building one large cattle barn the sum of four thousand dollars	4,000
Also, for building additional hog house and sheep pens the sum of fifteen hundred dollars	1,500
Also, for building additional grand stand the sum of fifteen hundred dollars	1,500
Also, for digging artesian well and piping the same to build- ings the sum of five hundred dollars.....	500
Also, for preparing ground and setting out and caring for trees the sum of two hundred dollars.....	200
Also, for repairs, paint and fixtures the sum of three hundred dollars	300
	<hr/> \$13,000

Payable out of the general funds of the state. Provided, however, and this appropriation is made subject to the transfer by the Central South Dakota Fair Association to the state of South Dakota of all its right, title and interest in and to all property, real and personal, now located upon what is known as the fair grounds at Huron, South Dakota, and the execution and delivery of a warranty deed to said grounds by the Chicago and Northwestern Railway Company to the state of South Dakota. Provided, that should a deed executed as above be accepted which is reversionary, and

that the state decides to vacate said grounds for state fair purposes, the buildings thereon shall be and remain the property of the state and may be removed at the will of the state. Provided, further, and this appropriation is made subject to the observance by the state board of agriculture of the provisions of section 167 of the Revised Code of 1903, relating to the sale of spirituous liquors or the engaging in gaming upon or near said grounds. Provided, that no part of said appropriation shall be available until the transfer by the rightful owner of said proposed state fair grounds at Huron, South Dakota, to the state of South Dakota, conveying said lands by deed of warranty and the submission of an abstract of title, to be approved by the attorney general.

§ 2. All acts and parts of acts in conflict with this act, and particularly Chapter 218 of the Session Laws of the state of South Dakota for the year 1903, wherein the same conflicts with this act, in providing for the leasing of suitable grounds for the purpose of exhibiting live stock, together with the agricultural and horticultural and mechanical arts, are hereby repealed.

Approved March 3, 1905.

CHAPTER 23

(S. B. 186)

APPROPRIATION FOR THE STATE FAIR AT HURON

AN ACT Making an Appropriation for the State Fair at Huron, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. There is hereby appropriated from the general fund the sum of three thousand dollars (\$3,000) a year, for the years 1905 and 1906, for the purpose of paying the premiums awarded at the state fair for said years.

§ 2. The state board of agriculture is authorized to temporarily use one thousand dollars of this said premium money each year for advertising purposes, the same to be returned to the treasury of said board to the said premium fund, out of the proceeds of the gate money at the state fair. The auditor of the state is hereby authorized to issue a warrant therefor, payable to the state fair treasurer, on the order of the president, countersigned by the secretary of said board. That the balance, two thousand dollars (\$2,000) shall be paid to said treasurer on the order of the president, countersigned by the secretary, at least ten days before the date of the

holding of the state fair. Provided, that this appropriation shall not be available until the receipts of the fair are exhausted, and then only in sufficient amount to pay the outstanding premiums left unpaid after such receipts are so exhausted. Provided, further, that this appropriation is made and shall remain upon the express condition that no intoxicating liquors shall be sold upon and no gambling shall be allowed upon the fair grounds during the continuance of the fair; and no warrants shall be drawn under this act for the payment of premiums until the state board of agriculture shall furnish the state auditor with satisfactory proof that no intoxicating liquors were sold upon and no gambling was allowed upon the fair grounds during the continuance of the state fair as herein provided.

Approved March 3, 1905.

CHAPTER 24

(H. B. 37)

APPROPRIATING MONEY FOR THE SOLDIERS' HOME

AN ACT to appropriate Money for Deficiencies in the Maintenance Fund of the Soldiers' Home.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. There is hereby appropriated out of the general fund of the state, not otherwise appropriated, the sum of eight thousand, nine hundred and fifty-three dollars and twenty cents (\$8,953.20), or as much thereof as may be necessary, to supply the deficiency in the maintenance fund of the soldiers' home for the year ending June 30, 1905, caused by the act of congress prohibiting the sale of clothing to members of the home, by the construction of fire escapes, and by the renewal of the water and steam plant of said home, which were necessary to keeping the building of said home in use.

§ 2. Whereas, there is not sufficient money in the maintenance fund of said home to maintain it during the year ending June 30, 1905, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved February 4, 1905.

CHAPTER 25

(S. B. 82)

APPROPRIATING MONEY FOR THE SPEARFISH NORMAL

AN ACT to appropriate Money for a Deficiency in the Funds for the Payment of Salaries, Maintenance, Fuel and Lights at the Spearfish State Normal School.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] There is hereby appropriated out of any moneys in the general fund of the state not otherwise appropriated, the sum of three thousand five hundred dollars (\$3,500), or so much thereof as may be necessary, for the payment of salaries, maintenance, fuel and lights for the Spearfish State Normal School during the remainder of the fiscal year ending June 30, 1905, to be expended as may be lawfully directed by the regents of education of the state of South Dakota.

§ 2. Duty of the State Auditor] The state auditor shall draw his warrants for such amounts, not to exceed the above sum and for the purposes stated, as may be presented to him upon itemized vouchers properly sworn to by the parties entitled to receive the same and approved by the regents of education.

§ 3. Emergency] Whereas, the funds for salary, maintenance, fuel and lights are exhausted and said institution cannot be kept open for the remainder of said fiscal year without further funds as herein appropriated, therefore an emergency exists and is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved January 31, 1905.

CHAPTER 26

(S. B. 33)

APPROPRIATING MONEY FOR THE STATE BOARD OF AGRICULTURE

AN ACT Making Appropriation for Deficiency for the Payment of the Per Diem and Expenses of the State Board of Agriculture for the Years 1903 and 1904.

Be it Enacted by the Legislature of the State of South Dakota:

Whereas, the legislature of 1903 omitted to appropriate the amount provided by law for the payment of the per diem and ex-

penses of the members of the state board of agriculture for the years 1903 and 1904; and whereas, these duties have been performed and the expenses paid by the individual members thereof, in the several amounts, and bills sworn to and filed with the auditor of state; therefore,

§ 1. There is hereby appropriated the sum of one thousand, forty-one dollars and twenty cents (\$1,041.20) out of the general fund, and the state auditor is authorized to draw the warrants therefor, payable as follows:

H. A. Fletcher, president of said board, three hundred dollars	\$ 300.00
John H. King, vice president of said board, one hundred fifty-three dollars, ten cents.....	153.10
C. C. Moulton, member of said board, one hundred eighty dollars, forty-four cents.....	180.44
F. H. Smith, member of said board, one hundred ninety-seven dollars, four cents.....	197.04
Geo. H. Whiting, member of said board, two hundred ten dollars, sixty-two cents.....	210.62
	<hr/>
	\$1,041.20

In full of all expenses and per diem of all the members of said board for the years 1903 and 1904.

Approved February 16, 1905.

CHAPTER 27

(S. B. 29)

APPROPRIATING MONEY FOR THE SCHOOL OF MINES

AN ACT to appropriate money to supply the deficiency in the Maintenance Fund of the State School of Mines at Rapid City, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] That there is hereby appropriated the sum of eight hundred (\$800) dollars out of any money now in the hands of the state treasurer, not otherwise appropriated, to supply the deficiency in the maintenance fund of the State School of Mines at Rapid City, South Dakota, said fund having been exhausted, and eight hundred (\$800) dollars is needed for the purchase of fuel.

§ 2. Duty of Auditor] The state auditor shall issue warrants on this sum on properly certified vouchers and proofs and the state treasurer shall pay the same.

§ 3. An emergency is hereby declared to exist and this act shall take effect from and after its passage and approval.

Approved February 16, 1905.

CHAPTER 28

(S. B. 94)

APPROPRIATION FOR GEORGE W. SNOW

AN ACT to Appropriate Money to Pay Mileage and Per Diem of George W. Snow for Opening the Senate of the Ninth Session of the Legislature.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] There is hereby appropriated out of any money in the treasury of the state of South Dakota not otherwise appropriated, the sum of fifty-six and 80-100 (\$56.80) dollars, which shall be in payment of mileage and per diem of George W. Snow, retiring president of the senate, for opening the ninth session of the legislature of the state of South Dakota.

§ 2. An emergency is hereby declared to exist, and this act shall take effect and be in full force from and after its passage and approval.

Approved February 11, 1905.

CHAPTER 29

(S. B. 27)

APPROPRIATION FOR PRESIDENTIAL ELECTORS

AN ACT to Appropriate Money to Pay the Per Diem and Mileage of the Presidential Electors Elected at the Last General Election.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] That there is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, for the purpose of paying the expenses of the presidential electors elected at the last general election, the following sums of money, or so much thereof, as may be necessary:

Per diem	\$115.00
Mileage	158.40

§ 2. Emergency] There being no appropriation available for paying the expense of the presidential electors elected at the last general election, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved February 11, 1905.

CHAPTER 30

(S. B. 134)

APPROPRIATING MONEY FOR FRATERNAL SOCIETIES

AN ACT to appropriate Money to Refund to Secret, Benevolent or Fraternal Societies Money Collected in Violation of Section 53 of Chapter 51 of the Laws of 1890.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, money to refund to secret, benevolent or fraternal societies amounts collected from them by the insurance department of this state in violation of section 53, Chapter 51, Laws of 1890, and paid into the state treasury, as follows:

Independent Order of Foresters.....	\$ 26.90
Fraternal Brotherhood of the World.....	71.10
Order of Home Guardians.....	38.61
Royal Tribe of Joseph.....	304.67
Woodmen of the World.....	143.66
Brotherhood of American Yeomen.....	368.19
Catholic Order of Foresters.....	210.36
Woman's Catholic Order of Foresters.....	156.61
Modern Woodmen of America	456.88
National Aid Association.....	82.54
Court of Honor.....	71.95
Knights of the Maccabees.....	998.10
Royal Neighbors of America.....	41.40
Royal Arcanum	53.03
Modern Brotherhood of America.....	610.61
Ladies of the Maccabees.....	195.02

Total.....\$3,829.63

§ 2. Duty of Auditor and Treasurer] The state auditor shall issue warrants to the parties named in section 1 of this act for the

sums therein appropriated, and the state treasurer shall pay the same. Provided, that said appropriations are made on the express condition that said respective amounts are covered back into the treasuries of said claimant fraternal orders, without any division, and verified vouchers are filed showing that all of said money reverts to the benefit of said orders.

§ 3. Emergency] An emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 3, 1905.

CHAPTER 31

(S. B. 217)

DEFICIENCY APPROPRIATION FOR THE OFFICE OF SECRETARY OF STATE

AN ACT to Appropriate Money for Deficiency in the Fund for Office Expenses in the Office of Secretary of State.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] There is hereby appropriated out of the general fund of the state, not otherwise appropriated, the sum of three hundred (\$300) dollars for incidental expenses in the office of the secretary of state for the period ending June 30, 1905, the same to be disbursed on warrants thereon to be drawn by the state auditor on properly certified vouchers.

§ 2. Emergency] Whereas, the appropriation for expenses of the office of secretary of state made by the legislature of 1903 was insufficient for said purpose for the period ending June 30, 1905, an emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 4, 1905.

CHAPTER 32

(S. B. 141)

DEFICIENCY APPROPRIATION FOR PUBLISHING PROPOSED AMENDMENTS TO THE CONSTITUTION

AN ACT to Appropriate Money to Pay Deficiencies for Publishing Proposed Amendments to the Constitution of the State of South Dakota, for Legislative Stationery, Supplies and Printing for the Ninth Legislative Assembly of the State of South Dakota, and for Clerk Hire for Taking Care of the Legislative Supply Room.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] There is hereby appropriated out of the general fund of the state of South Dakota, not otherwise appropriated, the following sums of money to pay deficiencies in printing and publishing proposed amendments to the constitution of the state of South Dakota, for legislative supplies, stationery, and printing for the ninth legislative assembly of the state of South Dakota, and for clerk hire for taking care of the legislative supply room.

For publishing proposed amendments to the constitution:

The Sanborn County Herald.....	\$27.60
The Hamlin County Republican.....	27.60
The Hamlin County News.....	27.60
The Pierpont Signal.....	27.60
The Pioneer Times (Deadwood).....	27.60
The Dell Rapids Times.....	27.60
Pioneer Press (Miller).....	27.60
The Bowdle Pioneer.....	27.60
Keystone Record	27.60
The Recorder (Sturgis).....	27.60
The New Era Printing Co.....	27.60
The Mitchell Capital.....	27.60
The Groton Independent	27.60
The Tyndall Tribune	27.60
The Redfield Press.....	27.60
The Salem Special.....	27.60
The Canova Herald.....	27.60
The Rapid City Journal.....	27.60
The Belle Fourche Bee.....	26.56
The Redfield Journal.....	26.56
The South Dakota Mail.....	26.56
The Hot Springs Star.....	26.56
The Waubay Clipper.....	26.56

The Moody County Enterprise.....	26.56
The Public Opinion.....	26.56
The Platte Epitome.....	26.56
The Faulkton Advocate.....	26.56
The Custer Chronicle.....	70.31
The Lead Daily Call.....	70.31
The True Republican.....	70.31
The Times Record (Doland).....	70.31
Northwest Blade	70.31
Press and Dakotan Gazette.....	70.31
The Clark Republic Courier.....	70.31
The Union County Courier.....	70.31
The Wilmot Reporter.....	70.31

For compensation of clerk for taking care of the legislative supply room for fifty-five (55) days, \$110.

For expenses incurred in providing necessary stationery and supplies for use of the ninth legislative session:

Hipple Printing Company.....	\$177.00
Brown & Saenger.....	275.15
News Printing Co.....	112.72
Will A. Beach.....	102.40
State Publishing Co.....	524.43
S. S. Ruble.....	95.00
The Capital-Journal	10.00
For additional legislative supplies and printing.....	300.00

§ 2. Duty of Auditor] The state auditor shall issue warrants for the aforesaid sums of money hereby appropriated, or any part thereof, upon receipt of itemized vouchers filed in his office and duly approved, and the state treasurer shall pay the same when presented.

§ 3. Emergency] Whereas, there are no available funds with which to pay such expenses, this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1905.

CHAPTER 33

(S. B. 172)

DEFICIENCY APPROPRIATION FOR PUBLIC PRINTING

AN ACT to Appropriate Money to Pay Deficiency for the Printing and Binding of Reports of State Officers and State Boards of Control of the State of South Dakota, and Such Other Reports and Documents as Were Required by Law to be Printed by Officers and Employees of Said State Under the Third Class of Printing for the Fiscal Year Commencing July 1, 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That there is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of two thousand nine hundred and seven and 50-100 (\$2,907.50) dollars, to pay C. J. McLeod for a deficiency for the printing and binding of the reports of state officers and state boards of control of the state of South Dakota, and such other reports and documents as were required by law to be printed by officers and employees of said state under the third class of printing, for the fiscal year commencing July 1, 1903.

§ 2. The state auditor shall issue a warrant upon the state treasurer for the sum of money hereby appropriated upon receipt of proper certified itemized vouchers, approved by the commissioner of public printing, filed in his office, and the state treasurer shall pay the same when presented.

§ 3. An emergency is hereby declared to exist, and this law shall take effect and be in force from and after its passage and approval.

Approved March 4, 1905.

CHAPTER 34

(H. B. 201)

APPROPRIATION FOR J. T. STEARNS AND OTHERS

AN ACT Entitled an Act to Reimburse J. T. Stearns, O. C. Stuart and H. J. King for Per Diem and Mileage While in the Discharge of Their Duties as Supervisors of an Election Held on the 16th Day of May, 1893, in the County of Lyman, for the Organization of Said County.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. There is hereby appropriated out of the general fund of the state of South Dakota not otherwise appropriated, the sum of

forty-four and 70-100 dollars (\$44.70), or so much thereof as may be necessary, to pay the per diem and mileage of J. T. Stearns, O. C. Stuart and H. J. King while in the discharge of their duties, under appointment by the governor, as supervisors of an election held on the 16th day of May, 1903, in the county of Lyman for the organization of said county.

§ 2. Whereas, no appropriation having been made for the payment of these claims, an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1905.

CHAPTER 35

(H. B. 73)

APPROPRIATION TO PAY EXPENSES IN CERTAIN CRIMINAL PROSECUTIONS

AN ACT to Appropriate Money to Pay Expenses Incurred in Criminal Prosecutions Arising in Unorganized Counties Attached to Lyman County, and Remaining Unpaid for Want of Appropriation.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] That there is hereby appropriated out of the general fund of the state, not otherwise appropriated, the sum of six hundred forty-seven dollars and ninety-four cents (\$647.94), or so much thereof as may be necessary, to pay and defray the expense incurred in criminal prosecutions arising in unorganized counties attached to Lyman county in the state of South Dakota.

§ 2. Duty of Auditor] The state auditor shall issue warrants upon this fund so appropriated, upon properly certified, itemized vouchers made by the owner of claims against the state, which claims must conform to the itemized account of expenses of the trials, duly certified by the state's attorney prosecuting for said unorganized counties and duly allowed by the circuit court. Provided, that in all those cases, when such claims have been paid by Lyman county, or any other county that might have had such a case on change of venue, an affidavit by the county auditor of such county be filed with the state auditor showing that the county has paid any of such claims. Then it shall be the duty of the state auditor, after causing an investigation of such claims to be made by the public examiner, to issue warrants to the county or counties for such amount as has been paid by them.

§ 3. Emergency] An emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1905.

CHAPTER 36

(H. B. 176)

APPROPRIATION FOR JANE E. WALDRON AND OTHERS

AN ACT to Reimburse Jane E. Waldron and Mrs. H. K. Rice for the Expense Incurred While Serving as a Member of the Woman's Investigating Board of the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] There is hereby appropriated out of the general fund of the state of South Dakota the sum of forty-eight dollars to reimburse Jane E. Waldron and the sum of twenty-nine dollars to reimburse Mrs. H. K. Rice for expenses incurred by them in the year 1901, while in the discharge of their duties as members of the woman's investigating board of the state of South Dakota.

§ 2. Duty of the Auditor] It is hereby made the duty of the state auditor to issue warrants for the said amounts upon presentation of receipts therefor signed by the said Jane E. Waldron and Mrs. H. K. Rice.

§ 3. Emergency] Whereas, there are no funds available for the payment of the said expenses, an emergency is hereby declared to exist and this bill shall take effect and be in force from and after its passage and approval.

Approved March 4, 1905.

CHAPTER 37

(S. B. 93)

APPROPRIATION FOR STATE BOARD OF HEALTH

AN ACT to Appropriate Money for the Payment of Deficiency Incurred by the State Board of Health During the Fiscal Year Ending June 30, 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appropriation] There is hereby appropriated out of the general funds of the state of South Dakota, not otherwise appro-

priated, the sum of one hundred sixty-six dollars and seventy-five cents (\$166.75) for necessary expense incurred by the state board of health, during the fiscal year ending June 30, 1903, the same to be disbursed on warrant thereon to be drawn by the state auditor, as in case of other state officers.

§ 2. Emergency] Whereas, by Chapter 217 of the Session Laws of 1903, certain rules and regulations were required to be made and enforced by the state board of health during the month of May, 1903, and no funds for the payment of the expense thereby incurred were provided, an emergency is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved March 4, 1905.

CHAPTER 38

(H. B. 64)

APPROPRIATION FOR THE NORTHERN NORMAL SCHOOL

AN ACT Entitled an Act to appropriate Money for the Construction, Equipment and Furnishing of a Workshop Building upon the Lands Occupied by the Northern Normal and Industrial School of the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of fifteen thousand dollars, or so much thereof as may be necessary, for the construction, heating, equipment and general furnishing of a workshop building, to be built, furnished and equipped with special reference to the needs of industrial instruction in wood and metal working, upon the lands donated to and occupied by the Northern Normal and Industrial School of the state of South Dakota.

§ 2. Regents to Have Supervision—Duty of Auditor] Said building shall be erected under the supervision of the board of regents of education, and the state auditor shall issue warrants upon the treasurer in payment for the construction, equipment and furnishing thereof, upon properly certified vouchers from said board, which said vouchers shall be itemized, and upon presentation of said warrants the state treasurer shall pay the same.

§ 3. Erected by Contract—When Completed] Said building shall be erected by contract after receiving bids, and shall be completed and ready for occupancy on or before the first day of September, 1905.

§ 4. Emergency] The equipment of said school being deficient and totally inadequate to meet the demand for instruction and education therein, and it being imperative that this act shall be in immediate force and effect, in order that said building may be completed and equipped within the time hereinbefore specified, an emergency exists and is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 10, 1905.

ASSESSMENT AND TAXATION

CHAPTER 39

(H. B. 148)

RELATING TO BOARDS OF EQUALIZATION

AN ACT Amending Section 2098 of the Revised Political Code of South Dakota, Relating to Boards of Equalization.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 2098 of Article 5 of Chapter 20 of the Revised Political Code of 1903 of the state of South Dakota relating to assessment and taxation be and the same is hereby amended so as to read as follows:

Section 2098. The board of supervisors of each township, the clerk, president and board of trustees of each incorporated town, and the city council and auditor of each city (except cities whose charters provide for a board of equalization), shall meet on the fourth Monday of June at the office of the town clerk or auditor for the purpose of reviewing the assessment of property in each town or district, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list and duly valued by the assessor; in case any property, real or personal, shall have been omitted by inadvertance or otherwise it shall be the duty of the said board to place the same upon the list, with the true value thereof, and proceed to correct the assessment so that each tract or lot of real property and each article, parcel or class of personal property shall

be entered on the assessment list at the true value thereof; but the assessment of the property of any person shall not be raised until such person shall have been duly notified of the intent of the board so to do, and on the application of any person considering himself aggrieved they shall review the assessment and correct the same as shall appear to them just. A majority of said officers are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all the cases presented on that day; provided, that they shall complete the equalization within six days. All complaints and grievances of individuals, residents of the town or district, in reference to the assessment of personal property, shall be heard and decided by the town board provided, that the complaints of non-residents in reference to the assessment of any property, real or personal, and of others in reference to any assessment, made after the meeting of the town board of review, shall be heard and determined by the county board.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. An emergency is hereby declared to exist, wherefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1905.

CHAPTER 40

(H. B. 161)

RELATING TO COUNTY AND STATE BOARDS OF ASSESSMENT

AN ACT to Define the Duties and Powers of the County and State Boards of Assessment in the Assessment of Properties, and Prescribing Remedies Therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. The board of county commissioners of the several counties of this state, or the state board of assessment, are hereby authorized and empowered, and it is hereby made their duty, to take such means and measures as they shall deem proper and expedient to ascertain, discover and place upon the proper assessment rolls and tax lists all taxable property in any county omitted from such assessment rolls or tax lists, or which has been omitted or concealed from assessment; and in so doing such county commissioners or state board may contract for, and in their official

capacity employ, such aid and assistance as they shall deem necessary and proper, and fix the compensation of all persons so by them employed, which compensation shall be reasonable for the services rendered.

§ 2. Whenever it shall appear to the state board of assessment or to any board of county commissioners of any county in this state that any property properly taxable in such county has been concealed or omitted from assessment, they may fix a time and place of hearing upon the matter, and shall issue a notice, signed by the chairman, to the owner or owners of such property, as near as can be ascertained, requiring such owner or owners to appear at the time and place of hearing so fixed, and show cause, if any there be, why said property which shall be designated in such notice should not be assessed and subject to taxation in such county. The commissioners shall cause notice to be served upon such owners by registered letter to their last known postoffice address, at least twenty (20) days before the date of such hearing.

§ 3. At the time and place so fixed, or at the time and place to which such hearing may be adjourned, the county commissioners shall proceed to examine the matter, and if after such hearing the county commissioners are of the opinion that any such property has been concealed from assessment or omitted from the proper assessment roll or tax list, they shall proceed to assess the value thereof and to certify by certificate duly signed by the chairman or the acting chairman of such board, to the county auditor of said county, the name of the owner or owners of such property, which such property shall be designated in such certificate, together with the value thereof, as by them assessed, and the proper assessment district to which said property belongs; provided, that in any county of this state where county commissioners fail or refuse to act in accordance with these provisions, the state board of assessment shall have full power and it shall be their duty to proceed to assess any and all property properly taxable at any time and in any county of this state as herein provided by this section. And said boards of assessment, or either of them, may make such assessments at any time between July 1st and December 1st of each year for the year for which said assessment is so made, and said boards, or either of them, may convene at any time between said dates for the purpose of carrying into effect the provisions of this act.

§ 4. It shall thereupon be the duty of the county auditor to enter said property upon the proper assessment rolls and tax lists, and to list the same for taxation, pursuant to such facts stated in such certificate, and such other proceedings shall be had relative to the assessment, listing for taxation and the collection of the proper tax upon said property as shall subject such property to its proper

tax and as provided for the collection of taxes upon property duly and properly assessed and listed for taxation.

§ 5. In any act or proceeding in any court to invalidate such assessment or to set aside the same, no evidence shall be received or allowed until such owner shall affirmatively show that all his property has been listed for taxation, and on such hearing, if the court shall find that any such owner's property has been omitted from the tax rolls or tax duplicate he shall assess all of the same and fix the value thereof and direct the county auditor to place such omitted property on the tax duplicate for taxation, and direct the county treasurer to collect the tax on the same.

§ 6. Repeal] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 3, 1905.

CHAPTER 41

(H. B. 183)

AUTHORIZING DEFICIENCY TAX LEVY

AN ACT Authorizing and Empowering the State Board of Assessment and Equalization to Levy a Tax of Two Mills on the Dollar on the Assessed Valuation of All Taxable Property in the State at Their Annual Meeting in August, 1905, for the Purpose of Paying the Deficiency of the Preceding Year.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Deficiency Tax Levy Authorized] It appearing that the ordinary expenses of the state for the fiscal year ending June 30, 1905, exceed the income of the state for such year, the state board of assessment and equalization of the state of South Dakota is hereby empowered and authorized at their annual meeting in the month of August, 1905, to levy a tax of two mills on each dollar, in addition to the ordinary levy of two mills on the dollar, on the assessed valuation of all taxable property in the state, to be ascertained by the last preceding assessment made for state and county purposes, such additional levy of two mills on the dollar to be so made for the purpose of paying the deficiency of the preceding year, together with the estimated expenses of the ensuing year.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 3, 1905.

CHAPTER 42

(H. B. 170)

PROVIDING FOR COUNTY AUDITORS MEETING WITH BOARD OF
EQUALIZATION AND ASSESSMENT

AN ACT Entitled an Act to Provide for County Auditors Meeting With the State Board of Assessment and Equalization Annually for Conference Relative to Assessment, and Providing an Appropriation Therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Annual Meeting of County Auditors With State Board of Assessment and Equalization] It shall be the duty of the state board of assessment and equalization to meet annually at the capital of the state on the fourth Tuesday of March, for the purpose of counsel with, and instruction of, the county auditors of the state as hereinafter mentioned, and it shall be the duty of the county auditor of each county to meet with said board at said time and place annually for counsel and conference with said state board of assessment and equalization concerning the duties of assessors and the method of making assessments for taxation, and particularly with reference to securing uniform rates of assessment of property for taxation, and obtaining assessment of all property in the state subject to taxation, and it shall be the duty of each county auditor at the annual conference of the assessors with the county commissioners and county auditor, as provided by section 2086, Revised Political Code, to instruct and direct such assessors in the performance of their duties fully and explicitly in accordance with the laws of this state and the instructions given and imparted to them by said state board of assessment and equalization. Each county auditor shall receive the amount of his actual and necessary expenses in attendance upon said meeting with the state board of assessment and equalization, to be paid by warrant drawn by the state auditor upon vouchers properly executed, verified and filed by such county auditors in the same manner as is now provided by law for the payment of expenses of state officers.

§ 2. Appropriation] For the purpose of paying expenses of county auditors in attendance upon said meeting with the state board of assessment and equalization as above stated, there is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of three thousand (3,000) dollars, out of which sum fifteen hundred (1,500) dollars may be expended for said purpose for the year 1905, and fifteen hundred (1,500) dollars for the year 1906, or so much thereof as may be necessary.

§ 3. Emergency] Whereas, the present methods of assessment have resulted in gross inequalities and the omission of property

from assessment and taxation, and it being essential that the next annual assessment shall be properly and uniformly made, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1905.

CHAPTER 43

(H. B. 97)

RELATING TO TAX LEVIES BY BOARD OF COUNTY COMMISSIONERS

AN ACT Entitled an Act to Amend Section 2137 of the Revised Political Code of the State of South Dakota, Relating to Tax Levies by the Board of County Commissioners.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 2137 of the Revised Political Code of the state of South Dakota, be and the same is hereby amended to read as follows:

Section 2137. On the first Tuesday in Septemebr of each year the board of county commissioners must meet at the county seat to levy the necessary taxes for the current fiscal year, and they may levy the taxes at any time after the said first Tuesday in September, if the statement from the state board of assessment and equalization has not been received; but such levy must not be postponed for more than ten days, and they shall levy the taxes as hereinafter directed. Such taxes shall be based upon an itemized statement of the county expenses of the ensuing year, which statement shall be included in the published proceedings of said board; and no greater levy of county tax shall be made upon the taxable property of any county than will be equal to the amount of such expenses, with an excess of five per cent of the same. The board of county commissioners shall have power to make the following levies:

1. For general county purposes, including the support of the poor, such an amount as will necessitate a rate per centum not greater than six mills.

2. For insane purposes, such an amount as may be due the state for the support of the insane from their county.

3. For county roads, such an amount as will necessitate a rate per centum not greater than two mills; provided, that the county road tax shall not be extended against property included within the limits of any organized township or any organized city or town.

4. For county bridges, such an amount as will necessitate a rate per centum not greater than two mills, except in counties where only a part of its territory is organized into civil townships, the county commissioners shall levy one mill only on organized townships.

5. For county sinking fund, such an amount as will pay one year's interest on the bonded indebtedness of the county, with not to exceed fifteen per cent of the principal. The money from the sinking fund tax shall be applied to no other purpose than the payment of outstanding bonds and interest on the same, until such bonds and interest are fully paid, when any surplus remaining shall be transferred to the county general fund. Provided, that the total county rate shall not exceed in any one year the sum of ten mills on the dollar for all purposes.

6. The county commissioners of each county also may levy a tax of one dollar on each elector in the county for the support of the common schools, and no property shall be exempt from the collection of such tax by distress or otherwise, which taxes when so collected shall be distributed to the several school corporations in the county in proportion to the number of children resident in the territory of each, from six to twenty years of age, inclusive.

7. In all counties not wholly organized into civil townships the county commissioners shall levy on each male person living in an unorganized township, and outside the boundaries of any organized city or town in said county, and being above twenty-one years of age and under the age of fifty, excepting paupers, idiots, lunatics and such others as may be exempted by law, a road poll tax of one dollar and fifty cents, which must be paid in money or by one day's labor in each year on the public highway within his road district, at the time and place directed by the road overseer, and if not worked out or paid on demand, then no property shall be exempt to make the collection of such tax by distress or otherwise; provided, that the county commissioners shall have power to levy taxes against the property of such unorganized township for fireguards as now provided by law.

8. The county commissioners of each county shall cause to be charged upon the tax list against the name of each person returned by the assessor as the owner or keeper of a dog or dogs, as a tax the sum of one dollar for each dog owned or kept by such person, which tax when collected shall be credited to the school fund and return the same to the school district from which it was collected.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 24, 1905.

CHAPTER 44

(H. B. 98)

AUTHORIZING THE CONSOLIDATION OF STATE TAX FUNDS

AN ACT to Authorize the Consolidation of State Tax Funds and Placing to the Credit of the General Fund of the State.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. The state auditor and state treasurer are hereby authorized and directed to consolidate into one account the accounts heretofore kept between the state and the several counties of the state of taxes levied and collected for state purposes for the year 1903 and prior years, and to place to the credit of the general fund of the state all collections hereafter received from said years' state tax levies.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 20, 1905.

CHAPTER 45

(H. B. 145)

EMPOWERING COUNTY COMMISSIONERS TO CONTRACT FOR THE COLLECTION OF PERSONAL PROPERTY TAX

AN ACT Entitled an Act Empowering County Commissioners to Contract With any Competent Person for the Collection of Personal Property Tax Judgments or Personal Property Tax Delinquent for More than One Year.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. In any county where for any reason personal property taxes that have been delinquent for more than one year remain unpaid, uncanceled or not put into personal property tax judgment, or in any county where delinquent taxes have been put into tax judgment, the county commissioners of such county may contract with any competent person of the county to pay him a percentage of such delinquent personal property taxes, or personal property tax judgments collected by him, in addition to the compensation now provided by law. And such expense of collection shall be borne pro rata by the state, county, city, village, township or school district in which such tax is laid.

Approved February 28, 1905.

CHAPTER 46

(H. B. 126)

LEGALIZING ACTS OF THE CITY COUNCIL OF HOT SPRINGS

AN ACT to Legalize the Acts of the City Council of the Town, now City, of Hot Springs, Fall River County, South Dakota, Relating to Certain Special Assessments.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That the acts of the city council of the city of Hot Springs, Fall River County, state of South Dakota, in the years 1891, 1892 and 1893, pertaining to the special assessment and levy of a special tax for the purpose of grading the streets of said city, are hereby legalized and made valid from and after the date of said special assessments and levies, and all the acts necessary to render said assessment and levy legal and valid shall be deemed to have been done as provided by law.

§ 2. That the acts of the officers of said city of Hot Springs, so far as the question of the legality of all special assessments and levies for grading the streets of said city for the years 1891, 1892 and 1893 is concerned, are hereby deemed to be legal and valid.

§ 3. It is hereby declared that an emergency exists and that this act shall be in force from and after its passage and approval.

Approved February 28, 1905.

CHAPTER 47

(S. B. 40)

RELATING TO COLLECTION OF TAXES

AN ACT to Amend Sections 2218 and 2219, Article 14, Chapter 20 of the Revised Political Code of 1903, Relating to the Collection of Taxes on Itinerant, Transient or Bankrupt Stocks of Merchandise.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That sections 2218 and 2219, Article 14, Chapter 20 of the Revised Political Code of 1903 be and the same are hereby amended to read as follows:

Section 2218. Whenever such assessment is returned to the county treasurer, it shall be his duty to issue a warrant forthwith to

the sheriff or any constable of the county wherein such itinerant or transient sales are being effected, commanding him to collect such tax forthwith.

Section 2219. It shall be the duty of such sheriff or constable to proceed forthwith according to the exigencies of his warrant and demand the amount of taxes so levied from the person or persons conducting such sale, and if not paid to levy the same upon any goods, wares and merchandise as shall be found in the possession of such salesman or salesmen, and sell the same after ten days' notice given in the nearest legal newspaper, and make return thereof, deducting his legal fees and returning the surplus, if any, after paying costs and taxes, to the owner, or reputed owner or agent in possession.

Approved February 11, 1905.

CHAPTER 48

(S. B. 68)

RELATING TO ASSESSMENT AND TAXATION

AN ACT to Amend Section 2108, Article 5, Chapter 20, of the Revised Political Code of 1903, Entitled "Assessment and Taxation."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That subdivision first of section 2108, Article 5, Chapter 20, of the Revised Political Code of 1903, be amended to read as follows:

First—(a) The whole number of acres of agricultural land listed in the county and the total value thereof; and (b) the whole number of acres of mineral land listed in the county and the total value thereof.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. Emergency] An emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved February 20, 1905.

CHAPTER 49

(S. B. 183)

RELATING TO COLLECTION OF CITY TAXES

AN ACT to Amend Section 1265 of the Revised Political Code of 1903, Relating to the Collection of City Taxes and Special Assessments.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 1265 of the Revised Political Code of 1903 be amended to read as follows:

Section 1265. The county treasurer of such county shall collect and enforce the collection of the city and school tax with and in the same manner as other taxes, and shall pay over to the city treasurer on the first of each month, on demand, all such taxes so collected during the preceeding month, retaining one per cent of such taxes as his commission for collecting the same, and shall forthwith notify the city auditor of the amount so paid over. The county treasurer shall take duplicate receipts for all amounts so paid over to the city treasurer, one of which shall be forthwith sent to the city auditor. Provided, that when special assessments are made by any city, town or village for sidewalks, sewers or other purposes and such special assessments shall be unpaid and become delinquent, it shall be incumbent upon the city council of such city or board of trustees of such town or village to, by ordinance, authorize the auditor of such city, town or village to certify any such delinquent special assessments to the county auditor, and then it shall be the duty of the county auditor to place such delinquent special assessments upon the tax books, and such delinquent special assessments shall be collected by the county treasurer by sale of the property in the same manner and at the same time as other delinquent taxes. Provided, further, that all such delinquent special assessments mentioned in this act shall be certified to the county auditor on or before the first day of October. The county treasurer shall receive the same compensation for the collection of such special assessments as for the collection of other taxes.

§ 2. This act shall in no way abrogate or repeal any other law providing for the collection of special assessments or remedies for the enforcement of the collection thereof. An emergency is hereby declared to exist, and this act shall be in force and take effect immediately upon its passage and approval.

Approved March 6, 1905.

CHAPTER 50

(H. B. 207)

RELATING TO ROAD TAXES

AN ACT Entitled an Act to Amend Section 1659 of Chapter 17, Article 6 of the Revised Political Code of 1903, Relating to Road Taxes.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section 1659, Chapter 17, Article 6, of the Revised Political Code of 1903, be and is hereby amended so as to read as follows:

Section 1659. Any road tax levied by the board of county commissioners in addition to the poll tax may be worked out in the road district in which such person resides, when it is a personal tax or a tax on personal property, or in the road district where the real property is situated on which tax is levied, at the rate in all cases of one dollar and fifty cents (\$1.50) per day. Provided, road taxes levied on property belonging to railroads or any other corporations shall be worked out in any place in the township where such property is assessed, and it shall be the duty of the board of supervisors to designate the place or places where such road taxes shall be worked out, under the direction of the overseer of highways.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 7, 1905.

CHAPTER 51

(S. B. 179)

RELATING TO COLLECTION OF PERSONAL PROPERTY TAX

AN ACT Entitled an Act to Amend Section 2185, Revised Political Code of 1903, Relating to the Collection of Personal Property Tax by Distress.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 2185 of the Revised Political Code of 1903 be and the same is hereby amended to read as follows:

Section 2185. On the first day of October in each and every year the county treasurer shall make a list of all delinquent personal property taxes and certify the same to the sheriff of his county.

On receipt of the same the sheriff shall file the list in his office and immediately proceed to collect such delinquent taxes in the manner and method now provided by law for the collection of delinquent personal property taxes by the treasurer, and the sheriff shall be entitled to the same fee for collecting such taxes as is by law given to the county treasurer for levy and distraint, and the county treasurer shall receive no fee on money so collected by the sheriff other than the percentage allowed and credited to the special salary fund. Provided, however, that nothing in this section shall prevent the treasurer from receiving taxes and issuing receipt therefor as heretofore, and [in] addition to the taxes, penalty and interest due, shall collect all accrued costs of the sheriff incurred under the provisions of this section. Provided, that no cost shall be collected by the treasurer or paid to the sheriff unless the sheriff shall before such payment file an itemized statement of said costs on or before the last Monday of November in each year after receiving such list of taxes, and shall make a return of his full proceedings thereunder and file the same with the county treasurer. For such taxes as have been collected there must be attached to said return a duplicate receipt to the sheriff from the county treasurer, showing the total amount paid into the treasury since the last return, and for such taxes as are not collected a statement showing why they are not so collected must be attached. No fees shall be paid to the sheriff for such collection, except out of taxes collected, as hereinafter provided. The county treasurer shall furnish the sheriff with tax receipts for such collections, and they shall have the following words printed at the top of each receipt: "Sheriff's receipt for delinquent personal property taxes." The sheriff shall turn over to the county treasurer the full amount collected at the close of each month, including all mileage allowed by law and other costs and fees collected, and take a receipt from the county treasurer on the stub or duplicate of each receipt so issued, for each and every collection.

The county treasurer shall on the last day of each month furnish the sheriff with a certified list of all fees, mileage and other amounts which by law is now allowed to the county treasurer that have been paid into his office by the sheriff, and the sheriff shall file such list with the county auditor as a bill against the county, for which the board of county commissioners shall allow the sheriff a warrant in full.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 8, 1905.

CHAPTER 52

(H. B. 204)

RELATING TO TAXATION IN UNORGANIZED COUNTIES

AN ACT Amending Section 2221, Article 15 of Chapter 20 of the Revised Political Code of 1903, Relating to Taxation in Unorganized Counties.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 2221 of Article 15 of Chapter 20 of the Revised Political Code of 1903, relating to taxation in unorganized counties be and the same is hereby amended so as to read as follows:

Section 2221. County auditors shall receive as compensation for making original and duplicate tax lists and all other work incumbent upon them as auditors, acting for the unorganized counties, the sum of one-half ($\frac{1}{2}$) mill on each dollar of the value of the property in the unorganized counties as returned by the state board of equalization for the preceding year.

Assessors shall receive as compensation for making the assessment in unorganized counties the sum of four dollars per day for each day necessarily employed in making assessment, which compensation shall be paid by the state treasurer from the taxes collected on such assessment.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 8, 1905.

CHAPTER 53

(S. B. 218)

RELATING TO NOTICE AND TIME OF TAX SALE

AN ACT Entitled an Act to Amend Sections 2194 and 2195 of the Revised Political Code, Relating to Notice and Time of Tax Sale.

Be it Enacted by the Legislature of the State of South Dakota:

Section 1. That sections 2194 and 2195 of the Revised Political Code of 1903 of the state of South Dakota be amended to read as follows:

Section 2194. The treasurer shall give notice of the sale of real property by publication thereof once a week for three consecutive weeks, commencing the second week in October preceding the sale, in a newspaper in his county, if there be one; and if there be no newspaper published in his county he shall give notice by written or printed notice posted at the door of the court house or building in which the courts are commonly held, or the usual place of meeting of the county commissioners, for three weeks previous to the sale. Such notice shall contain a notification that all lands on which the taxes of the preceding year or years remain unpaid will be sold, and the time and place of the sale; and said notice must contain a list of the lands to be sold and the amount of taxes, both real and personal, due. Provided, that when any real property not exceeding ten dollars in assessed value shall have been advertised in a newspaper for two successive years under the provisions of this section and not sold, the treasurer shall give notice of the sale of said property by posting a written notice in the manner provided when there is no newspaper published in the county, and the same shall not be advertised in the newspaper. The county treasurer shall charge and collect in addition to the taxes and interest and penalty the sum of ten cents on each tract of real property and on each town lot advertised for sale, which sum shall be paid into the county treasury and the county shall pay the cost of publication; but in no case shall the county be liable for more than the amount charged to the delinquent lands for advertising.

Section 2195. On the second Monday of November in each year, between the hours of nine o'clock a. m. and four o'clock p. m., the treasurer is directed to offer at public sale at the court house, or at the place of holding courts in this county, or at the treasurer's office where by law the taxes are made payable, all lands, town lots or other real property which shall be liable for taxes of any description for the preceding year or years, and which shall remain due and unpaid, and he may adjourn the sale from day to day until all the lands, lots or other real property have been offered; and no taxable property shall be exempt from levy and sale for taxes.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 8, 1905.

CHAPTER 54

(S. B. 160)

RELATING TO TAXATION OF GIFTS, LEGACIES AND INHERITANCES

AN ACT to Tax Gifts, Legacies and Inheritances in Certain Cases, and to Provide for the Collection of the Same, and Fixing Penalties.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That all property, real, personal and mixed, which shall pass by will or by the intestate laws of this state, or according to the provision of any statute in this state, from any person who may die seized or possessed of the same while a resident of this state, or if decedent was not a resident of this state at the time of his death, which property, or any part thereof, shall be within this state, or any interest therein or income therefrom which shall be transferred by deed, grant, sale or gift made in contemplation of the death of the grantor, or bargainer or giver, or intended to take effect in possession or enjoyment after such death, to any person or persons or to any body politic or corporate in trust or otherwise, or by reason whereof any person or any body politic or corporate shall become beneficially entitled, in possession or expectancy, to any property or income thereof, shall be and is subject to a tax at the rate hereinafter specified, to be paid to the treasurer of the proper county for the use of the state, and all heirs, legatees and devisees, administrators, executors and trustees shall be liable for any and all such taxes until the same shall have been paid as hereinafter directed.

When the beneficial interests to any property or income therefrom shall pass to or for the use of any father, mother, husband, wife, child, brother, sister, wife or widow of the son, or husband of the daughter, or any child or children adopted as such in conformity with the laws of the state of South Dakota, or to any person to whom the deceased, for not less than ten years prior to death, stood in the acknowledged relation of a parent, or to any lineal descendant born in lawful wedlock; in every such case the rate of tax shall be one dollar on every one hundred dollars of the clear market value of such property received by each person, and at and after the same rate for every less amount. Estates of the clear market value of twenty thousand dollars or less transferred to the widow of the deceased, and five thousand dollars to each of the other persons above mentioned, shall be exempt.

When the beneficial interest to any property or income therefrom shall pass to or for the use of any uncle, aunt, niece, nephew or any lineal descendant of the same, in every such case the rate of such tax shall be two dollars on every hundred dollars of the clear market value of such property received by each person. Estates of the clear market value of five hundred dollars transferred to each of the persons last above mentioned shall be exempt.

In all other cases the rate shall be as follows: On each and every one hundred dollars of the clear market value of all property and at the same rate for any less amount on all estates of ten thousand dollars and less, four dollars; on all estates of over ten thousand dollars, and not exceeding twenty thousand dollars, six dollars; on all estates over twenty thousand dollars and not exceeding fifty thousand dollars, eight dollars; and on all estates over fifty thousand dollars, ten dollars. Estates of the clear market value of one hundred dollars, transferred to each of the parties mentioned in the last named class, shall be exempt.

The taxes so imposed by this act shall be upon the clear market value of such property at the rates above prescribed for each class and only upon the excess above the exemption herein provided.

§ 2. When any person shall bequeath or devise any property or interest therein or income therefrom to mother, father, husband, wife, brother, sister, the widow of a son or a lineal descendant during life or for a term of years, or the remainder to the collateral heir of the decedent or to a stranger in blood or body corporate at their decease, or on the expiration of such term the said life estate or estate for a term of years shall not be subject to any tax, and the property so passing shall be appraised immediately after the death at what was the fair market value thereof at the time of the death of the decedent in the manner hereinafter provided, and after deducting therefrom the value of said life estate or term of years the tax prescribed by this act on the remainder shall be immediately due and payable to the treasurer of the proper county, and together with the interest thereon shall be and remain a lien on said property until paid. Provided, that the person or persons or body politic or corporate beneficially interested in the property chargeable with said tax may elect not to pay the same until they shall come into the actual possession or enjoyment of such property, and in that case said person or persons or body politic or corporate shall execute a bond to the state of South Dakota in a penalty three times greater than the amount of said tax, with such surety as the judge of the county court of the proper county may approve, conditioned for the payment of said tax and interest thereon at such time or period as they or their representatives may come into the actual possession or enjoyment of said property; said bond shall be filed in the office of the clerk of the county court of the proper county. Provided,

further, that such person shall make a full, verified return of such property and file the same in the office of the clerk of the county court of the proper county within one year from the death of the decedent and within that period enter into such security, and renew the same every five years.

§ 3. All taxes imposed by this act, unless otherwise herein provided for, shall be due and payable at the death of the decedent, and interest at the rate of six per cent per annum shall be charged and collected thereon for such times as said tax is not paid. Provided, that if said tax is paid within twelve months from the accruing thereof, interest shall not be charged and collected thereon, but a discount of five per cent shall be allowed. Administrators or trustees do not pay such tax within one year from the death of the decedent they shall be required to give a bond in the form and to the effect prescribed in section two of this act for the payment of said tax, together with interest.

§ 4. Any administrator, executor or trustee having in charge or trust any legacies or property for distribution subject to the said tax shall deduct the tax therefrom, or if the legacy or property is not money he shall collect a tax thereon upon the appraised value thereof from the legatee or person entitled to such property, and he shall not deliver or be compelled to deliver any specific legacy or property subject to tax to any person until he shall have collected the tax thereon, and whenever any such legacy shall be charged upon or payable out of real estate the heir or devisee before paying the same shall deduct said tax therefrom and pay the same to the executor, administrator or trustee, and the same shall remain a charge on said real estate until paid, and the payment thereof shall be enforced by the executor, administrator or trustee in the same manner that the payment of such legacy might be enforced; if, however, such legacy be given in money to any person for a limited period he shall retain the tax upon the whole amount, but if it be not in money he shall make application to the court having jurisdiction of his accounts to make an apportionment if the case requires it, of the sum to be paid into his hands by said legatees and for such further order relative thereto as the case may require.

§ 5. All executors, administrators and trustees shall have full power to sell so much of the property of the decedent as will enable them to pay said tax in the same manner as they may be enabled by law to do for the payment of debts of their testators and intestates, and the amount of said tax shall be paid as hereinafter directed.

§ 6. Every sum of money retained by any executor, administrator or trustee or paid into his hands for any tax on any property shall be paid by him within thirty days thereafter to the treas-

urer of the proper county, and said treasurer shall give, and every executor, administrator or trustee shall take, duplicate receipts from him of such payment, one of which receipts he shall immediately send to the treasurer of state, whose duty it shall be to charge the treasurer so receiving said tax with the amount thereof, and said treasurer of state shall seal said receipt with the seal of his office and countersign the same and return it to said executor, administrator or trustee, whereupon it shall be a proper voucher in the settlement of his accounts, but said executor, administrator or trustee shall not be entitled to credit in his accounts or be discharged from liability for such tax unless he shall produce a receipt so sealed and countersigned by the treasurer of state, or a copy thereof, duly certified by such treasurer.

§ 7. Whenever any of the real estate of which any decedent may die seized shall pass to any body politic, corporate or to any person or persons, or in trust for them, or some of them, it shall be the duty of the executor, administrator or trustee of such decedent to give information thereof in writing to the treasurer of the county where said real estate is situate within six months after undertaking the execution of their respective duties, or if the fact be not known to them within that period, then within one month after the same shall come to their knowledge.

§ 8. Whenever debts shall be proven against the estate of the decedent after the payment of legacies or distribution of property, from which said tax has been deducted, or upon which it has been paid and a refund is made by the legatee, devisee, heir or next of kin, a proportion of the tax so paid shall be repaid to him by the executor, administrator or trustee if said tax has not been paid to the county treasurer or to the treasurer of the state, and by them if it has been so paid.

§ 9. Whenever any foreign executor or administrator shall assign or transfer any stock or loans in this state standing in the name of a decedent, or any trustees for a decedent, which shall be liable to said tax, said tax shall be paid to the treasurer of the proper county on the transfer thereof, otherwise the party making or permitting such transfer shall become liable to pay such tax.

§ 10. When any amount of said tax shall have been paid erroneously to the treasurer of said state, it shall be lawful for him, on satisfactory proof rendered to him by the county treasurer of said erroneous payment, to refund and pay to the executor, administrator or person or persons who have paid such tax in error the amount of such tax so paid. Provided, that all such applications for the repayment of such tax shall be made within two years from the date of said payment.

§ 11. In order to fix the value of property of persons whose estates shall be subject to the payment of such tax, the county judge,

on application of any interested party or officer, or upon his own motion, shall appoint some competent person as appraiser, as often as and whenever occasion may require, whose duty shall be forthwith to give such notice by mail to all persons known to have or claim an interest in said property, and to such persons as the county judge may by order direct, of the time and place at which he will appraise such property, and at such time and place to appraise the same at a fair market value, and for that purpose the appraiser is authorized, by leave of the county judge, to use subpoena for and to compel the attendance of witnesses before him and to take the evidence of such witnesses under oath concerning such property and the value thereof, and he shall make a report thereof and of such value in writing, together with depositions of the witnesses examined and such other facts in relation thereto and of such matters as said judge may by order require to be filed in the office of the clerk of the county court, and from this report the said county judge shall forthwith assess and fix the then cash value of all estates, annuities and life estates or term of years growing out of said estate, and the tax to which the same is liable, and shall immediately cause notice by mail to be given to all parties known to be interested therein. Any person or persons dissatisfied with the appraisement or assessment may appeal therefrom, as provided for appeals from the county court, within sixty days after the making and filing of such appraisement or assessment, upon giving approved security for the payment of all costs, together with whatever taxes shall be ultimately adjudged. The said appraiser shall be paid by the county treasurer out of any funds he may have in his hands, upon the certificate of the county judge, at the rate of three dollars for every day actually and necessarily employed in making said appraisement, with his actual and necessary traveling expenses as allowed and fixed by the judge of the county court.

§ 12. Any appraiser appointed by virtue of this act who shall take any fee or reward from any executor, administrator, trustee, legatee, next of kin or heir of any decedent, or from any other person liable to pay said tax or any portion thereof, shall be guilty of a misdemeanor and upon conviction thereof in any court of competent jurisdiction shall be fined not less than two hundred and fifty dollars or more than five hundred dollars and imprisoned not exceeding ninety days, and in addition thereto he shall be dismissed from such service.

§ 13. The county court in the county in which the real property is situate of a decedent who was not a resident of the state, or of the county in which the decedent was a resident at the time of his death, shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this act.

§ 14. If it shall appear that any tax accruing under this act

has not been paid according to law, a citation shall be issued, citing the person interested in the property liable to the tax to appear before the court on a day certain, not more than three months after the date of such citation, and show cause why such tax should not be paid. The process, practice and pleading and the hearing and determination thereof and the judgment in said court in such cases shall conform to the practice in other probate cases, and the fees and costs in such cases shall be the same as in probate cases in the county courts in this state.

§ 15. Whenever the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act, after the refusal of the person interested in the party liable to said tax to pay the same, he shall notify the state's attorney of the proper county, in writing, of failure to pay such tax, and the state's attorney so notified, if he have probable cause to believe a tax is due and unpaid, shall prosecute the proceedings in the proper court as provided in section fourteen of this act for the enforcement and collection of such tax, and in such case said court shall allow as costs in said case, to be paid as said tax is paid, such fees to said attorney as he may deem reasonable.

§ 16. The judge and clerk of the county court of each county shall, every three months, make a statement in writing to the county treasurer of his county as to the property from which or the party from whom he has reason to believe a tax under this act is due and unpaid.

§ 17. The clerk of the county court of each county shall procure a book, in which he shall enter the returns made by appraisers, the cash values of annuities, life estates and terms of years and other property as fixed by the county court, together with the tax assessed thereon and the amount of any receipts for payments thereon filed with him, which book shall be a public record.

§ 18. Any person or body politic or corporate shall, upon the payment of the sum of fifty cents, be entitled to a receipt from the county treasurer, or a copy of the receipt, at his option, that may have been given by said treasurer for the payment of any tax under this act, which receipt shall designate on what real property, if any, of which deceased may have died seized said tax has been paid, and by whom paid, and whether or not it is in full of said tax, and said receipt may be recorded in the office of the clerk of the county court of the county in which the property may be situate in the book provided for by section seventeen.

§ 19. The lien of the collateral inheritance tax shall continue until the said tax is settled and satisfied. Provided, that said lien shall be limited to the property chargeable therewith. And, provided further, that all inheritance taxes shall be sued for within six years after they are due and legally demandable, otherwise they shall be

presumed to be paid and cease to be a lien as against purchasers of said real estate only.

§ 20. Whenever the county judge of any county shall certify that there was probable cause for issuing a summons, and taking the proceedings specified in sections fourteen and fifteen of this act, the state treasurer shall pay or allow to the treasurer of any county all expenses incurred for service of summons and his other lawful disbursements that have not yet been paid.

§ 21. The treasurer of each county shall collect and pay the state treasurer all taxes that may be due and payable under this act, who shall give him a receipt therefor, of which collection and payment he shall make a report under oath to the county auditor on the first Monday in March and September of each year, stating for what estate paid, and in such form and containing such particulars as the county auditor may prescribe, and for all said taxes collected by him and not paid to the state treasurer by the first day of October and April of each year, he shall pay interest at the rate of six per cent per annum.

Approved March 6, 1905.

ATTORNEYS

CHAPTER 55

(S. B. 132)

RELATING TO QUALIFICATIONS OF PERSONS FOR ADMISSION TO PRACTICE LAW

AN ACT Entitled an Act Amending Section 687 of the Revised Political Code of 1903, Relating to the Qualifications of Persons for Admission to Practice Law in the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Section 687 of the Revised Political Code of 1903 shall be amended so as to read as follows:

Section 687. Any person becoming a resident of this state after having been admitted to the bar of any other state, or of the Dis-

trict of Columbia, in which he has previously resided, may, in the discretion of the court, be admitted to practice law in this state without examination or proof of period of study of law as provided by section 686 of the Revised Political Code of 1903, as amended by Chapter 78 of the Session Laws of 1903, upon presenting a certificate of admission to the bar to practice law in the highest courts of the state or district from which said person shall come, and upon proof of the other qualifications required by section 686 of the Revised Political Code of 1903, as amended by Chapter 78 of the Session Laws of 1903, and upon such other proof that he has practiced law regularly for not less than five years in the state or district from which he comes, and that he has been duly admitted to practice according to the laws of such state or district.

§ 2. Emergency] There being no adequate law upon the subject of admission to practice law of persons becoming residents of this state after having been admitted to the bar of any other state, an emergency exists and is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved February 27, 1905.

BANKS

CHAPTER 56

(S. B. 87)

RELATING TO BANKS

AN ACT Fixing the Liability of Banks for the Payment of Forged or Raised Checks to a Depositor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. No bank shall be liable to a depositor for the payment by it of a forged or raised check, unless within three (3) months after the return to the depositor of the voucher of such payment, such depositor shall notify the bank that the check so paid was forged or raised.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 23, 1905.

BEEF AND HIDE INSPECTOR

CHAPTER 57

(H. B. 171)

RELATING TO BEEF AND HIDE INSPECTION

AN ACT Entitled an Act Authorizing the Appointment of County Beef and Hide Inspector, Defining the Duties of said Inspector, and Requiring the Inspection of Slaughtered Beef Animals and the Hide Therefrom, and Providing Penalty for the Violation Thereof.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Appointment of County Beef and Hide Inspector] The county commissioners of any county in this state, on petition therefor, signed by at least twenty-five (25) persons, each of whom are actively engaged in the business of owning and breeding cattle in their respective counties, shall have power to appoint the sheriff of said county as county beef and hide inspector therein, who shall hold the office of county beef and hide inspector during his term of office as sheriff of said county unless removed for cause by the board of county commissioners.

§ 2. Appointment of Deputies—County Beef and Hide Inspectors' Fees for Inspecting] The sheriff of said county, after having been appointed inspector therefor, shall have power to appoint as many deputy beef and hide inspectors as are necessary for the convenience of the people engaged in the slaughter and sale of slaughtered beef animals and the hides therefrom, in said county, and shall hold their respective offices until removed by the sheriff or county commissioners; provided that no person shall hold the office of deputy county beef and hide inspector who is engaged in the butchering business.

The county beef and hide inspectors shall be numbered as fol-

lows: The county inspector shall be known as No. 1, and the deputies shall be known as No. 2, 3, and continuing to as many numbers as are required, to be numbered as they are appointed. The county inspector and his deputies shall be entitled to a fee of twenty-five cents for the inspection of each and every slaughtered beef animal and the hide therefrom, inspected by them, to be paid by the owner of said slaughtered beef animal when the same is inspected.

§ 3. It shall be unlawful for any person, persons, firm or corporation within said county to sell or offer for sale, or export from said county, any slaughtered beef animal or any part thereof, or the hide therefrom, until the same shall have been inspected and marked by the county beef and hide inspector or his deputies, appointed under the provisions of this act, and all beef and hides duly marked and stamped as hereinafter provided.

§ 4. It shall be the duty of any person, persons, firm or corporation, before offering for sale any slaughtered beef animal or any part thereof, or the hide therefrom, within said county, or before exporting any slaughtered beef animal or any part thereof, or the hide therefrom, from said county, to have the same inspected, stamped and marked by the county beef and hide inspector or his deputy, who shall inspect said slaughtered beef animal and the hide therefrom and mark the same as provided in section five of this act.

§ 5. The county beef and hide inspector or his deputy shall, when any slaughtered beef animal and the hide therefrom is brought to him for inspection and the fee for inspection paid as provided in section two of this act, inspect the same and if said slaughtered beef animal and the hide therefrom is found to be the property of the person exhibiting the same for inspection, he shall mark or stamp the beef at least [four] (4) times on each and every quarter of the slaughtered animal, with a suitable rubber stamp and indelible ink thereon, giving the name of the county in which he is inspector, his number and the date of inspection. He shall also mark the hide of said slaughtered beef animal with the same stamp in the same manner and upon some portion of said hide where it may be readily seen when such hide is folded for shipment.

§ 6. The county beef and hide inspector or his deputy, after having inspected and marked any slaughtered beef animal and the hide therefrom, shall furnish the person, persons, firm or corporation having the slaughtered beef animal and the hide therefrom inspected, a certificate of inspection if they are entitled to sell the same showing:

1. The date and place of inspection.
2. The name of the person, persons, firm or corporation exhibiting the beef and hide and requesting inspection thereof.
3. The owner of the slaughtered animal at the time it was slaughtered.

4. About the weight of the animal, alive, at the time it was slaughtered.

5. The marks and brands thereon at the time it was slaughtered as disclosed by the exhibited hide.

6. The color of the animal as disclosed by the exhibited hide.

7. The name and number of the inspector or his deputy making the inspection. One copy of which shall be retained by the inspector or deputy making the inspection as a record, and one copy filed with the county auditor of said county, within five days after said inspection, who shall file the same as a record, which shall at all times be open to the public for inspection. All blanks, books and stamps necessary in carrying out the provisions of this act shall be furnished by the county auditor of the county wherein this law is enforced and the expense thereof shall be borne by said county.

§ 7. Any person, persons, firm or corporation found guilty of violating any of the provisions of this act shall be punished by a fine of not less than ten nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days, or by both such fine and imprisonment. The justices of the peace of the several counties shall have jurisdiction to try and determine the cases of alleged violation of the provisions of this act.

§ 8. Every person or persons folding, or causing to be folded, any hide for sale or shipment shall so fold said hide, or cause it to be folded, that the certificate thereon of an inspector shall be plainly seen, and it shall be unlawful for any dealer to purchase or for any common carrier to accept for shipment any hide on which the certificate of a legally appointed inspector is not plainly visible.

§ 9. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 10. Emergency] Whereas, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1905.

BONDS

CHAPTER 58

(H. B. 193)

RELATING TO REFUNDING BONDS

AN ACT to Amend Section 1484 of the Political Code of South Dakota, Relating to Refunding Bonds.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 1484 of the Revised Political Code of South Dakota be amended to read as follows:

Section 1484. Each incorporated town organized under and by virtue of a special charter, or under and by virtue of the general laws of this state, is hereby authorized and empowered, by and through its board of trustees, when deemed in the judgment of such board of trustees to be to the best interests of the town, to issue its negotiable bonds in the name of the town for the sole purpose of refunding the outstanding indebtedness of such town which is at the time due and payable, or is about to become due and payable, or whenever such indebtedness can be refunded at a lower rate of interest than the then existing rate of interest on the said indebtedness.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 10, 1905.

CHAPTER 59

(S. B. 21)

AUTHORIZING COUNTIES TO FUND OUTSTANDING INDEBTEDNESS

AN ACT Entitled an Act to Authorize Counties to Fund Their Outstanding Indebtedness.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. May Issue Bonds for Funding Outstanding Indebtedness—Denomination of—Amount of] Each and every county in the state is hereby authorized and empowered, by and through its boards of county commissioners, when ordered by a majority vote of the electors voting thereon, at a general or special election called for that purpose, to issue its negotiable bonds in the name of the county corporation for the sole purpose of funding the outstanding indebtedness which exists against said county. Provided, that no bonds shall be issued under the provisions of this act to pay or fund any indebtedness except such as is represented by the legally issued county warrants, or order of said county, issued since January 1, 1891, or such as is represented by the duly audited accounts or claims against said county which have been allowed since January 1, 1891.

Such bonds shall be in denominations of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1000), shall bear the date of their issue, shall be made payable to the purchaser or bearer and shall be made payable in not less than five (5) years nor more than twenty (20) years from the date of their issue, and may contain an option that they may be payable at any time after five (5) years, and bear interest at a rate not to exceed six (6) per cent per annum, payable semi-annually, with coupons attached for each interest payment, and shall not be sold for less than their par value. Provided, that in no case shall the amount of such bonds in the aggregate, including the then existing indebtedness, exceed [five] (5) per centum of the value of taxable property within such county, to be ascertained by the last assessment for county taxes previous to the issuing of such bonds.

The bonds and each coupon shall be signed by the chairman of the board of county commissioners and shall be attested by the county auditor. The seal of the county shall be affixed to each bond, but not to the coupons. Said bonds shall be lithographed printed and engrossed engraved on good bond paper, and each bond shall state on its face that it is issued in accordance and strict compliance with this act.

§ 2. Emergency] It being deemed that an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1905.

BROKEN METAL

CHAPTER 60

(S. B. 149)

RELATING TO THE PURCHASE OF DETACHED OR BROKEN METAL FIXTURES

AN ACT Entitled an Act to Prohibit the Purchase of Detached or Broken Metal Fixtures from Persons Under the Age of Eighteen Years, and Providing a Penalty Therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Misdemeanor] Every person who shall purchase or receive any detached or broken metal fixture, or any old brass, copper, bronze, lead, zinc, iron or metal from any person under the age of eighteen years, is guilty of a misdemeanor.

Approved March 1, 1905.

BUILDING AND LOAN ASSOCIATIONS

CHAPTER 61

(S. B. 229)

RELATING TO BUILDING AND LOAN ASSOCIATIONS

AN ACT to Amend Section 837, Revised Civil Code of 1903, Relating to Building and Loan Associations and Similar Corporations or Associations.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 837 of the Revised Civil Code of 1903 is hereby amended so as to read as follows:

Section 837. Any corporation, company or association organized under the laws of any other state, territory or nation, and having for its title, or for a part thereof, the words, "building association," "building and loan association," "savings association," "homestead association," or whose purpose is the buying or building of homes, whose stock, contracts or obligations are payable by an accumulative fund created by regular or stated periodical payments or installments, or whose business is done in a manner similar to that authorized to be done by the laws of this state relating to building and loan associations, shall transact no business of any kind within this state until it shall have complied with the requirements of this article.

§ 2. Repeal] All acts and parts of acts in conflict herewith are hereby repealed.

§ 3. Emergency] Whereas, certain corporations are transacting business in this state in such a manner as to evade the building and [loan] association laws of this state, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1905.

CHAPTER 62

(S. B. 2)

RELATING TO BUILDING AND LOAN ASSOCIATIONS

AN ACT Entitled an Act to Amend Section 835 of the Revised Civil Code of 1903, Relating to Building and Loan Associations, and Providing for the Issuing of Guaranty or Permanent Stock.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 835 of the Revised Civil Code of 1903 is hereby amended so as to read as follows:

Section 835. No such association shall ever issue any preferred or non-contributing stock, except fully paid debenture and deposit stock. Provided, that any association that has assets exceeding the sum of fifty thousand (50,000) dollars may issue guaranty or permanent stock, for which the full par value shall be paid at the time of issue, or in such installments as may be provided in the by-laws of the association. Such guaranty or permanent stock shall be entitled to receive dividends not exceeding the per cent of profits earned by all fully participating classes of stock at the time such dividend is declared, such dividend to be credited to the stock until fully paid, and when such stock is fully paid, the dividend may be paid in cash to the holders thereof. The balance of the profits, if any, and the principal paid on such stock [shall] not to be paid to the holders of the same until all lawful claims of every class of stock shall have been fully liquidated and paid by such association.

§ 2. Repeal] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. Emergency] Whereas, an emergency exists and is hereby declared to exist, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1905.

CENSUS

CHAPTER 63

(S. B. 1)

RELATING TO CENSUS

AN ACT Entitled an Act to Provide for the Collection, Preservation and Publication of Census and Vital Statistics, and Appropriating Money for Carrying the Same into Effect.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. The secretary of the State Historical Society is hereby constituted ex-officio superintendent of census and vital statistics for the state of South Dakota, who shall before he shall enter upon the discharge of his duties as such superintendent of census and vital statistics, take and subscribe an oath that he will perform the duties of said office to the best of his ability, and shall execute a bond in the sum of five thousand dollars, with sufficient sureties, to be approved by the governor, which bond shall be conditioned for the faithful performance of the duties of said office of superintendent of census and vital statistics, and shall run to the state of South Dakota; and said oath and bond shall be filed in the office of the secretary of state. Provided, that the said superintendent of census and vital statistics shall receive no compensation for the performance of the duties of such office, other than the regular salary paid to him as secretary of the State Historical Society.

§ 2. On or before the first day of April, 1905, and at the same date every tenth year thereafter, it shall be the duty of said superintendent of census and vital statistics to transmit to the county auditors of the several counties a sufficient quantity of blank forms, schedules and instructions for taking the census in the several counties as herein provided.

Said schedules and forms shall provide for:

1. The enumeration of all the inhabitants of the state by name, age, sex, color and nationality; occupation, ability to read and write, and whether blind, deaf and dumb, idiotic or insane.

2. The number of farms, the acres of each crop grown, and the quantity of each crop produced during the preceding year.

3. The number of milch cows and quantity of butter produced and milk sold during the preceding year.

4. Number of all other live stock, in such classes as the superintendent of census may require.

§ 3. Immediately upon receipt of such schedules, forms and instructions, the several county auditors shall notify, in writing, each county, township, town and city assessor within his county to meet at the office of the county auditor on the first Tuesday in April of said years, to receive from the county auditor a requisite number of the said schedules and forms, and such instructions and directions as will enable them to take said census and collect such statistics in the manner herein required.

§ 4. Each county, township, town and city assessor and their assistants, shall, before entering upon the discharge of their duties, take and subscribe an oath that he will make at the same time that he makes the regular assessment, a true and exact enumeration of all the persons then residing within his assessment district by a house to house visitation of each family, and that he will faithfully collect all other information and statistics therein as required by law, and make a true return thereof, according to the best of his ability, which oath shall be filed with the county auditor.

§ 5. In case any assessor fails to appear and qualify as such census enumerator upon said first Tuesday in April of such years, it shall then be the duty of the board of county commissioners to appoint a census enumerator for such assessment district, and such person so appointed shall qualify in the same manner as provided for assessors in the preceding section.

§ 6. Assessors, their assistants, and census enumerators appointed by the county commissioners to fill vacancies as provided in the last preceding section, shall receive the same per diem as is allowed by law to assessors; provided that no assessor shall draw per diem for both assessor and census enumerator; and provided further, that the expense of making such enumeration shall be paid by the county, township, town or city in which the enumeration is made; and further provided, that assessors who receive a yearly salary in any town or city shall be allowed an additional compensation of two cents for each name listed in such enumeration.

§ 7. Each county, township, town and city assessor, and all persons appointed as census enumerators by the county commissioners as by this chapter provided, shall upon the first day of May, 1905, and upon the first day of May in every tenth year thereafter, commence taking the enumeration of the inhabitants and collection of statistics as herein provided in their several districts, and for that purpose shall call at every dwelling house therein and by personal inquiry of the head of every family, or other person of mature years found there, ascertain the matters required to be ascertained and reported by them, and in such enumeration they shall include every person residing in such dwelling house on the first day of May of

the year of such enumeration, and said enumeration shall be completed on or before the first day of July in said year.

§ 8. It shall be the duty of each of said census enumerators to, on or before the fifth day of July in the year of such enumeration, deliver to the county auditor of his county the true and accurate schedules of such enumeration of the inhabitants, and of the collection of statistics as herein provided.

§ 9. It shall be the duty of the county auditor to forthwith and before the 15th day of July in such year, transmit the said schedules of enumeration and statistics to the said superintendent of census and vital statistics.

§ 10. Every person of the age of twenty years, who shall refuse to answer truly, to the best of his ability, any question which may be lawfully put to him by such enumerators of the census, shall forfeit to the state of South Dakota the sum of twenty dollars, to be recovered in a civil action, and be deemed guilty of a misdemeanor. Every assessor or other person who shall have accepted and qualified as census enumerator, who shall neglect or refuse to perform the duties required of him by this chapter, shall forfeit to the state the sum of two hundred fifty dollars, to be recovered in a civil action, and be deemed guilty of a misdemeanor.

§ 11. Every assessor or other person who shall have qualified as such census enumerator and who shall insert in the schedules and return names not actually resident of his district upon May 1st of the year of such enumeration, or who shall wilfully make any false certificate or return thereto, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subjected to a fine of fifty dollars, or to two days in the county jail, or to both such fine and imprisonment, in the discretion of the court.

§ 12. Whenever it shall be found that the enumeration of any assessment district has been improperly, or insufficiently made, or when the return thereof has been lost, not made or destroyed, the said superintendent of census and vital statistics may order a new enumeration to be made of such assessment district, under such regulations as he may prescribe, and the actual, necessary expense of such enumeration shall be paid by such assessment district.

§ 13. Immediately upon the receipt of the returns of such schedules from the several county auditors, the said superintendent of census and vital statistics shall carefully compile the same, showing the number of inhabitants in each county, township, city, town or village, and also such statistical matters as shall have been procured by such enumeration, and shall, on or before the first day of November of the year of such enumeration, report the same to the governor.

§ 14. There shall be printed, under the direction of the commissioner of public printing, in the same manner as the printing of

other state reports, twenty-five hundred copies of such compilation of the census, four hundred copies of which shall be bound in cloth boards and the remainder in pamphlet form.

§ 15. It shall be the duty of the said superintendent of census and vital statistics to provide suitable books and blank forms in which to make and keep the records of the births, deaths, marriages, divorces and naturalizations occurring in the state of South Dakota as provided by this chapter, and to furnish them to the several officers and persons required to make report and keep the same.

§ 16. On and after the first day of July, 1905, it shall be the duty of every physician, or other authorized person attending at the birth of a child, to make within ten days after the event of the birth, a record of the facts required herein, upon blanks provided by the state for that purpose. Provided, that if the said child shall not have been named within the ten days hereinbefore specified, then in such case all other parts herein required shall be certified as herein required, and the said child shall be named within sixty days after its birth, if living, and such name shall be certified and reported by the parents, or by one of them, or by the nearest of kin, or by the householder in which the birth occurs, in like manner as herein required. This record shall state the name and sex of the child, and the date and place of its birth; the name, age, nationality, place of birth, color, occupation and residence of the father; the maiden name, age, color, nationality, place of birth and residence of the mother, and the number of children previously born to her, if any. And this primary record, so made, the said physician or other authorized person, shall immediately and within five days, transmit to the clerk of courts of the county in which such birth occurs. Provided, that in all cases where no physician or other authorized person attends at the birth of any child, it shall be the duty of the male parent, or the oldest person next of kin, or of the householder of the house in which the birth occurs, to report the facts necessary to make such record to a justice of the peace of the county wherein such birth occurs, who shall make the said primary record, which shall be signed by the person communicating such facts, and be by such justice transmitted to the clerk of courts.

§ 17. From and after the first day of July, 1905, it shall be unlawful to bury the corpse of any person dying within the state, or to remove the same therefrom, without having first obtained a burial or transportation permit therefor, as hereinafter provided.

§ 18. It shall be the duty of the physician who last before death sees the person whose corpse is to be buried or transported from the state, to make a primary death certificate upon blanks provided by the state for such purposes, which certificate shall contain the name, nativity, age, date of death and place of residence of the deceased, and if an infant, the name and residence of its parents, and

the length of time deceased had resided in this state, together with the cause of death and duration of the fatal illness, and any contributing causes that may have had any effect in bringing the disease to a fatal issue.

§ 19. This primary death certificate, so made, shall be taken to a justice of the peace of the county in which the death occurred, who shall note the same upon his docket, and issue in exchange therefor a burial or transportation permit as requested; and he shall, within three days thereafter, transmit the primary death certificate to the clerk of courts of his county.

§ 20. In cases of accidental death, or where no physician or other authorized person was present before the death occurred, the next of kin of said, deceased, or any citizen cognizant of the facts, must at once make oath to the same before a justice of the peace of the county wherein the death occurs, who if satisfied that the death was due to natural causes only, shall make out the primary death certificate, noting his source of information on the same, and issue a burial permit as hereinbefore required. But if the justice be not satisfied that the death was solely due to natural causes, he shall at once notify the coroner of the county, who from his investigation of the facts shall issue the primary death certificate therefrom, and file the same with the clerk of courts.

§ 21. It shall be the duty of the clerk of courts of each county to receive the primary birth and death certificate as hereinbefore provided and to at once enter the same in substantial books, provided by the state for that purpose, showing a full and complete abstract of the information contained in each certificate, and he shall, on or before the fifteenth day of each month, transmit to the superintendent of census and vital statistics all of the said primary birth and death certificates, together with a record of the marriages performed in his county and of the decrees of divorce which may have been filed in his court records, and also a report of all naturalizations of foreigners during the next previous calendar month.

§ 22. It shall be the duty of the superintendent of census and vital statistics to receive the primary certificates of births and deaths, and the reports of the marriages, divorces and naturalizations from the several clerks of courts of the state, and to enter a full and accurate abstract of the same in permanent and substantial books of record, to be kept in his office at the capital of the state, and at the close of each fiscal year to report to the governor a complete summary, properly tabulated, of the information received; five hundred copies of which report shall be duly published, as are the reports of other state officers.

§ 23. Every physician or other person reporting births and deaths to the clerk of courts, in any of the several ways named in this act, shall be entitled to a fee of twenty-five cents for each cer-

tificate reported. The justice of the peace shall be entitled to a fee of twenty-five cents for each burial or transportation permit issued by him, and the clerk of courts shall be entitled to a fee of twenty-five cents for each birth and death certificate received, entered and transmitted to the superintendent of census and vital statistics, and a fee of ten cents for each abstract of marriage, divorce or naturalization records transmitted by him. All such fees to be paid out of the general fund of the county as hereinafter provided.

§ 24. It shall be the duty of the clerk of courts to make a complete list from his records of all persons who have returned primary birth and death certificates, and issued burial or transportation permits in his county during the previous year, and certify the amount due to each person, including his own fees, as provided in this act, and having certified to the correctness of the same, shall present it to the county commissioners at the first meeting after June 30th in each year, which amount shall be allowed by the boards of county commissioners of the several counties of the state, and warrants for the amounts due each person shall be issued.

§ 25. Any undertaker, sexton, keeper of a cemetery, or other person, who shall bury or transport any corpse, without first having obtained a burial or transportation permit as provided for in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not more than \$50. Any physician or other person charged with the duty of making and transmitting primary birth and death reports, as in this act provided, who shall fail in the performance thereof, shall forfeit to the state the sum of \$100, to be recovered in a civil action. Every justice of the peace who shall issue a burial or transportation permit, and shall fail to transmit to the clerk of courts the primary record upon which the permit was issued, shall forfeit to the state the sum of \$100. Every clerk of courts who shall fail to receive, enter and transmit to the superintendent of census and vital statistics, all birth, death, marriage and divorce records in his office as provided for in this act, shall forfeit to the state the sum of \$100, to be recovered in a civil action; Provided, that a recovery of such forfeiture for the failure to perform such duties in one month, shall not be a bar to an action to recover for failure to perform such duty in another and different month.

§ 26. It is hereby made the duty of the state's attorneys of the several counties of the state of South Dakota to prosecute all actions for violation of this act, which action shall be based upon the complaint of the superintendent of census and vital statistics.

§ 27. The superintendent of census and vital statistics is hereby authorized and empowered to make all necessary rules and regulations for carrying out the intent and purpose of this act, not inconsistent with the provisions of this chapter.

§ 28. This act shall apply to all the organized counties of the state.

§ 29. There is hereby appropriated from any money in the state treasury, not otherwise appropriated, the sum of \$4,000, or so much thereof as is actually necessary, which shall be paid upon the warrant of the state auditor, issued upon duly verified vouchers, to be certified by the superintendent of census and vital statistics, for the purpose of paying the necessary printing, clerk hire, traveling and miscellaneous expenses incident to carrying this act into effect.

§ 30. The record of the facts herein required to be recorded by the superintendent of census and vital statistics and the several clerks of courts, shall be in all cases prima facia evidence of such facts and each of them.

§ 31. Emergency] There being no provision for taking the census for the year 1905 as required by the constitution, an emergency is hereby declared to exist, and this act shall take effect upon and after its passage and approval.

§ 32. Repeal] All acts or parts of acts in conflict with this act are hereby repealed.

Approved January 25, 1905.

CHAPTER 64

(S. B. 165)

RELATING TO SCHOOL CENSUS

AN ACT Entitled an Act Providing for the Taking of the Census of Children of School Age, Upon Which to Apportion School Moneys.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. It shall be the duty of the clerk of the school district board or clerk of the board of education in each district in the state to, on or before the first Monday in June of each year, take the census of all the children under twenty-one and over six years of age residing in the district, giving the age, parent or guardian of each, and to file the same with the county superintendent on or before the said first Monday in June. He shall also place one copy of said census in the register of each school in the district. Provided, that before entering upon the duty of taking the school census, he shall take and subscribe an oath to faithfully perform the duties of census enumerator for the school district, to the best of his ability, and that he will, by a house to house visitation, enter in the

said census the names of all children of legal school age, as herein defined, and none other, and said oath he shall file with the county superintendent of schools.

§ 2. Any clerk of the district school board who shall, wilfully, enter and return, in said census the name of any child not of legal school age (as hereinbefore defined or who is not a legal resident of the district where enumerated, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding \$100.

§ 3. It shall be the duty of the county superintendent of schools to receive such census from each school district clerk in his county, and to carefully inspect the same, and by comparison with the previous census of said district, and other means, verify its accuracy, and if upon examination and comparison he finds the said census [to] be inaccurate, insufficient, or including names not properly enrolled in the said school district, it shall be his duty to cause a new census of the said school district to be made, and the expense thereof shall be charged to and paid by the said district so making the insufficient, false or fraudulent returns.

§ 4. On or before the first day of July in each year, each county superintendent shall report under oath to the commissioner of school and public lands the enumeration of persons of school age in each school district in his county, according to the census of the school districts as hereinbefore provided.

§ 5. Upon the receipt of such report of the enumeration of children residing in each school district in the state, it shall be the duty of the state commissioner of school and public lands to carefully inspect each report so received and, by comparison or otherwise, to satisfy himself of the accuracy thereof, and if upon such inspection, comparison or by other means he shall become satisfied that the census of any school district as reported is insufficient, false or fraudulent, it shall be his duty to provide for a re-enumeration of the said school district, and the expense of such re-enumeration shall be one-half paid by the school district so re-enumerated and one-half by the county in which such district is located. And upon the census of all of the school children secured, as hereinbefore provided, he shall apportion the school funds, as provided in section 396 of the Political Code of 1903.

§ 6. Whereas, there is no law for the protection of the school census from insufficient, false and fraudulent enumeration returns, an emergency is hereby declared to exist, and this law shall take effect and be in force from and after its publication.

§ 7. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 8, 1905.

CITIES

CHAPTER 65

(S. B. 114)

RELATING TO BONDS

AN ACT Entitled an Act to Authorize Cities to Issue Bonds in Settlement of Judgments, and to Compromise Judgments.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That whenever any city incorporated under the general laws of this state, or under any special law or charter, has issued and delivered its bonds, and whenever a judgment has been regularly recovered upon such bonds, either upon the principal or upon the defaulted coupons belonging to such bonds, establishing the validity thereof in a court of competent jurisdiction of this state or of the United States, such city, for the purpose of compromising such judgment, whenever a majority of the members of the city council of such city shall, by resolution duly passed, declare it to be for the best interest of such city, without submitting the matter to a vote of the electors thereof, may issue the bonds of such city, to be executed by its mayor and by its auditor, recorder or clerk.

§ 2. That no bonds shall be issued and delivered to the judgment creditor under the provisions of this act until after the execution of an agreement between such city and such judgment creditor to the effect that, upon the payment of the principal and interest upon said bonds, according to the terms thereof, such judgment shall be satisfied and discharged; but, provided, that prior to the payment in full of the principal and interest of said bonds, together with interest thereon according to the terms and conditions thereof, said judgment shall remain in full force and effect as security for the payment of such principal and interest; but, provided further, that so long as such city shall not make default for more than sixty days in the payment of the principal of said bonds or of the interest thereon, said judgment creditor shall take no proceedings at law or otherwise to enforce payment of such judgment. Such agreement shall be executed by such judgment creditor and by the mayor of such city in its corporate name, and shall be attested by the city auditor, recorder or clerk, and the seal of the city thereto attached. Such

agreement shall be executed in triplicate and one copy thereof shall be delivered to the judgment creditor, one copy shall remain in the custody of the city auditor, recorder or clerk, and the third copy shall be filed in the office of the clerk of the court in which said judgment is entered, and a memorandum of said contract entered upon the judgment docket of said court.

§ 3. That the principal of said bonds shall not exceed the amount due upon said judgment at the date which said bonds may bear. Said bonds shall mature upon a date to be therein specified, which shall not be less than ten years from the date of said bonds nor more than nineteen years from the date of the entry of such judgment. Said bonds shall be in denominations of \$100 or of multiples thereof not exceeding \$1,000, and shall bear interest at not more than four per cent per annum, payable semi-annually. The interest shall be evidenced by coupons attached to said bonds.

§ 4. That any such city may compromise and settle with any such judgment creditor by the delivery of any amount of said bonds less than the amount due upon such judgment that any such creditor may be willing to accept in compromise of such judgment.

§ 5. All acts or parts of acts in conflict with this act are hereby repealed.

§ 6. An emergency is hereby declared to exist, and this act shall take effect and be in force immediately after its passage and approval.

Approved March 8, 1905.

CHAPTER 66

(H. B. 141)

RELATING TO CITY OFFICERS

AN ACT Amending Section 1235 of the Revised Political Code, Relating to Terms of Elective Officers of a City and of City Assessors.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 1235 of the Revised Political Code of 1903 of the state of South Dakota be and the same is hereby amended so as to read as follows:

Section 1235. The elective officers of a city shall hold their respective offices for two years, and until their successors are elected and qualified. The terms of office of city assessors hereafter elected shall begin on the first day of August following their election.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 8, 1905.

CHAPTER 67

(S. B. 57)

RELATING TO CITIES

AN ACT Entitled an Act to Amend Subdivision 64 of Section 1229, Article 5, Chapter 14, of the Revised Political Code of 1903, Relating to Cities.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That subdivision 64 of section 1229, Article 5, Chapter 14 of the Revised Political Code of 1903, be and the same is hereby amended to read as follows:

64. To establish and regulate cemeteries within or without the corporation, and acquire lands therefor by purchase or otherwise, and cause cemeteries to be removed and prohibit their establishment within one mile of the corporation; to provide, under proper restrictions and regulations, for the management, direction and control of any cemeteries belonging to the city, by other corporations or associations organized for cemetery purposes.

§ 2. Whereas, an emergency exists and is hereby declared to exist, this act shall take effect and be in force and effect from and after its passage and approval.

Approved February 11, 1905.

CONSTITUTION

CHAPTER 68

(H. J. R. 7)

PROPOSING AN AMENDMENT TO THE CONSTITUTION

A JOINT RESOLUTION Proposing and Agreeing to an Amendment to Section 7, Article IX of the Constitution of the State of South Dakota, and Submitting the Same to a Vote of Electors of the State.

Be it Resolved by the House of Representatives of the State of South Dakota, the Senate Concurring:

§ 1. That at the next general election in this state, to be held on the first Tuesday after the first Monday in November, 1906, the

following proposed amendment to the constitution of the state, which is hereby agreed to, shall be submitted to the electors of the state for their approval. That section 7, Article 9, of the constitution be amended to read as follows:

Section 7. All county, township and district officers shall be electors in the county, township or district in which they are elected; provided, that nothing in this section shall prevent the holding of school offices by any person as provided in section 9, Article VII; and provided, further, that the legislature shall have authority to prescribe additional qualifications for superintendent of schools, not inconsistent herewith.

CHAPTER 69

(H. J. R. 11)

PROPOSING AN AMENDMENT TO THE CONSTITUTION

A JOINT RESOLUTION Proposing and Agreeing to an Amendment to Section 23 of Article V of the Constitution of the State of South Dakota, and Submitting Such Amendment to the Vote of the People.

Be it Resolved by the House of Representatives of the State of South Dakota, the Senate Concurring:

§ 1. That at the next general election in this state the following proposed amendment to section 23 of Article V of the constitution of the state of South Dakota, which is hereby agreed to, shall be submitted to the electors of this state for their approval:

That section 23 of Article V of the constitution be amended so as to read as follows:

"Section 23. The legislature shall have power to provide for creating such police magistrates for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns, respectively, and such police magistrates may also be constituted ex-officio justices of the peace for their respective counties. In cities having a population of five thousand or over the legislature may provide, in lieu of police magistrates, for municipal courts, the judges whereof shall be chosen in such manner as the legislature shall prescribe, which courts shall have exclusive original jurisdiction of all cases, both civil and criminal, cognizable before a justice of the peace under the laws of the state, and in which process shall be served within the city where such court is established; and shall also have exclus-

ive original jurisdiction of all cases arising under the ordinances of such city. Such court shall also have jurisdiction co-extensive with the county in which such city is situated, in such civil and criminal cases as may be provided by law."

CHAPTER 70

(H. J. R. 8)

PROPOSING AN AMENDMENT TO THE CONSTITUTION

A JOINT RESOLUTION Proposing and Agreeing to an Amendment to Article XXI of the Constitution of the State of South Dakota, and Submitting the Same to a Vote of the Electors of the State.

Be it Resolved by the House of Representatives of the State of South Dakota, the Senate Concurring:

That at the next general election in this state, to be held on the first Tuesday after the first Monday in November, 1906, the following proposed amendment to the constitution of the state, which is hereby agreed to, shall be submitted to the electors of the state for their approval:

That there be added to said Article XXI of the constitution of the state of South Dakota, section 6, to-wit:

Section 6. The drainage of agricultural lands is hereby declared to be a public purpose and the legislature may provide therefor, and may provide for the organization of drainage districts for the drainage of lands for any public use, and may vest the corporate authorities thereof, and the corporate authorities of counties, townships and municipalities, with power to construct levees, drains and ditches, and to keep in repair all drains, ditches and levees heretofore constructed under the laws of this state, by special assessments upon the property benefited thereby, according to benefits received.

CHAPTER 71

(S. J. R. 12)

PROPOSING AN AMENDMENT TO THE CONSTITUTION

A JOINT RESOLUTION Proposing and Agreeing to an Amendment to Section 1, Article 11 of the Constitution of the State of South Dakota, Entitled "Revenue and Finance," and Submitting Same to a Vote of the People.

Be it Resolved by the Senate of South Dakota, the House of Representatives Concurring:

§ 1. That at the next general election in this state the following amendment to section 1 of Article 11 of the Constitution of the state of South Dakota, which is hereby agreed to, shall be submitted to the electors of this state for their approval:

That section 1 of Article 11 of the Constitution be amended so as to read as follows:

Section 1. The legislature shall provide for an annual tax, sufficient to defray the estimated ordinary expenses of the state for each year, not to exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes.

And whenever it shall appear that such ordinary expenses shall exceed the income of the state for such year, the legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year. And for the purpose of paying the public debt, the legislature shall provide for levying a tax annually, sufficient to pay the annual interest and the principal of such debt within ten years from the final passage of the law creating the debt; provided, that the annual tax for the payment of the interest and principal of the public debt shall not exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state, as ascertained by the last assessment made for the state and county purposes.

Provided, that for the purpose of establishing, installing, maintaining and operating a hard fiber twine and cordage plant at the state penitentiary at Sioux Falls, South Dakota, the legislature shall provide for a tax for the year 1907 of not to exceed one and one-half mills on each dollar of the assessed valuation of all taxable property in the state, as ascertained by the last assessment made for state and county purposes.

CHAPTER 72

(S. B. 167)

RELATING TO CONSTITUTIONAL AMENDMENTS

AN ACT to Amend Section 1910, Article 6, Chapter 19 of the Revised Political Code of 1903, Relating to Publication of Constitutional Amendments.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 1910, Article 6, Chapter 19 of the Revised Political Code of 1903, be amended to read as follows:

Section 1910. Whenever a proposed constitutional amendment or other question is to be submitted to the people of the state for adoption or rejection, the secretary of state shall duly and in not less than thirty days before election, certify the same to the auditor of each county in the state, and the auditor of each county shall include the same in the publication provided for in section 1868 of this article. Questions to be submitted to the people of a county or municipality shall be advertised as provided for nominees for office at said election.

Approved February 28, 1905.

CORPORATIONS

CHAPTER 73

(S. B. 171)

RELATING TO SURETY, TITLE GUARANTY, EMPLOYERS' LIABILITY AND BURGLARY INSURANCE AND FIDELITY CORPORATIONS

AN ACT Entitled an Act Concerning the Powers of Surety, Title Guaranty, Employers' Liability and Burglary Insurance and Fidelity Corporations, to Provide for the Examination, Management and Control of the Same.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Corporations Governed by Act] Any corporation now existing or hereafter organized under the laws of this state or any

other state or country, for the purposes, either wholly or in part, of issuing or becoming surety on bonds and undertakings, employers' liability and burglary insurance, guaranteeing title to real property or acting as trustee, shall, before transacting any of said business in this state, make the deposit of guarantee fund, file the statement and procure the certificate of authority to transact said business as hereinafter provided.

§ 2. Deposit of Securities with State Treasurer] No such corporation shall transact any business in this state, nor issue any bond, undertaking, certificate of employers' liability or burglary insurance, certificate of title, nor act as trustee or hold any position of trust, until it shall have deposited with the state treasurer a guaranty fund, consisting of bonds of the United States or of this state, or of counties, municipalities or school districts of this state, or first mortgage security on real estate situated in this state, worth at least double the amount of the mortgages, which deposit of securities, in the aggregate, exclusive of interest, shall be at least twenty thousand dollars, such bonds and securities to be approved by the state treasurer and held in trust by him for the faithful performance and payment of the obligations of such corporation. Such corporations shall have the right at any time to exchange such securities so deposited by substituting for those withdrawn a like amount in other securities of the character provided for by this section, and the state treasurer shall permit such corporations to collect the interest accruing on such securities so deposited, delivering to them or their duly authorized agents the coupons or other evidences of interest, as the same shall become due. Should the said deposited securities or any part thereof be used for the payment of any of the obligations of such corporation, under process of any court, or should any of such securities be paid or become impaired in value from any cause, such corporation shall forthwith, upon ten days' notice from the insurance commissioner, or such further time as the commissioner may allow, deposit further and additional securities, as above provided, with the state treasurer, to make up the full amount of such deposit, as hereinbefore provided, in default of which the certificate of authority to transact business in this state may be revoked, as hereinafter provided.

§ 3. Certificate of Authority] Any such corporation mentioned in section one of this act shall, before it is authorized to transact any of the business herein mentioned, in this state, file with the insurance commissioner of this state a certified copy of its articles of incorporation and a statement containing the names of each of its stock holders, with their postoffice addresses, amount of capital stock held by each, amount paid on such stock, assets of such corporation in this state, together with the estimated value

of each item thereof, and such other information as the commissioner of insurance of this state may require, verified by the oath of the president, vice president, secretary or treasurer of such corporation, and upon filing such statement, and upon proof produced to him that the deposit of securities with the state treasurer has been made as hereinbefore provided, the commissioner of insurance shall, upon the payment of a fee of five dollars therefor, issue to such corporation a certificate authorizing it to engage in business in this state as provided by this act, and such corporation shall annually thereafter, and whenever requested in writing by the commissioner of insurance, furnish a full statement of its financial and corporate condition as above provided. Such certificate may be revoked by the commissioner of insurance whenever such corporation or its management is not such as to comply in all things with the provisions of this act. In the event of the revocation of its certificate of authority to transact business, such corporation may, within thirty days after notice of such revocation, file its petition in the circuit court of the county where its principal office or place of business in the state is located, setting forth the condition of its affairs, as required by this act, and the action of the commissioner of insurance in regard thereto, and stating wherein it is claimed he erred in revoking such certificate of authority, and shall within ten days after filing such petition serve a copy thereof upon the commissioner of insurance and the state's attorney of said county, who shall thereupon answer the same within ten days from such service. Thereupon such proceeding shall be deemed at issue, and without further notice may be brought on for trial before the court at such time, either during term or vacation, as the court may determine or the parties may agree. On trial of the issues thus raised the court shall enter judgment either confirming, modifying or reversing the decision of the commissioner of insurance, which decision shall be final. Provided, such revocation of authority shall not release or modify the obligation of such corporation on any bond, undertaking, certificate or liability which it may have theretofore issued or assumed.

§ 4. Powers and Regulations] Any corporation authorized to do business in this state under this act may issue certificates guaranteeing title to real property; become surety, either alone or with other sureties, upon the bond of any executor, administrator, guardian or trustee, municipal, county or state officer, the employe of any corporation, company or individual, and upon any other bond or undertaking required by the laws of this state or provided for by contract, and the production of such certificate of authority or a duly authenticated copy thereof shall be sufficient authority for the approval of such bond or undertaking by the officer or board authorized to approve the same; and such corporation may be appointed

to and act in any position of trust, testamentary or otherwise, except as executor, administrator or guardian in any case where individuals may act, with or without further bond than its own undertaking, as the court making such appointment shall determine. Bonds and undertakings executed by such corporations as surety, either alone or with others, shall have the same force and effect as if executed by two or more resident sureties; and, provided further, that any special form of justification which may be required by the laws of this state shall not apply to such corporation, and any official oath may be made and taken by the president, a vice president or secretary of such corporation.

§ 5. Foreign Corporations] Any foreign corporation, before engaging in any business mentioned in section one hereof, in this state, shall, in addition to the conditions hereinbefore required (including the filing of statement with the commissioner of insurance, deposit of guaranty fund with the state treasurer and procuring of certificate of authority), comply with all laws of this state which now are or may hereafter be in force concerning the filing of a certified copy of its articles of incorporation with the secretary of state and appointing a resident agent within this state upon whom service of process may be had.

§ 6. Penalty] Any corporation engaged in transacting any of the business mentioned in section two of this act, for profit, either as principal or agent, contrary to the provisions of this act, shall upon conviction therefor be fined not less than one hundred dollars nor more than five hundred dollars for each offense.

§ 7. Repeal] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 8, 1905.

CHAPTER 74

(S. B. 104)

RELATING TO TRUST COMPANIES

AN ACT to Provide for the Organization, the Powers and the Control of Trust Companies.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Trust Companies How Formed] Any association for the purpose of carrying on the business of a trust company may be formed by any number of natural persons not less than five (5), one third of whom shall be residents of this state.

§ 2. Articles of Incorporation] The persons uniting to form such an organization shall under their hands make articles of incorporation, which articles shall be acknowledged before a clerk of some court of record or notary public who shall authenticate such acknowledgement with his seal, and which articles shall specifically state: First, the name assumed by such trust company, which name shall not be that of any other trust company in this state and which name shall include the word "trust;" second, the place where the principal business of the trust company is to be carried on; third, the amount of capital stock and the number of shares into which it is divided; fourth, the names and places of residence of the shareholders and the number of shares held by each; fifth, the term for which the trust company is to exist, which term shall be twenty (20) years, and the dates at which it shall commence and terminate its corporate existence; sixth, a statement in general terms setting forth the object of the trust company. The articles of association may contain any other provisions not inconsistent with law which the corporation may see fit to adopt for the regulation of its business and the conduct of its officers.

§ 3. Articles of Incorporation to be Filed] The articles of incorporation shall be recorded in the office of the register of deeds in the county where such trust company may be established, and such articles of incorporation shall then be transmitted to the secretary of state, who shall record and carefully preserve the same in his office.

§ 4. Powers] Upon the filing of articles of incorporation as required above and the issuance according to law by the secretary of state of the certificate of such filing, the persons named in such articles of incorporation and their successors shall thereupon become a corporation, and in addition to the powers conferred upon all corporations by the laws of the state of South Dakota shall have power:

First—To be appointed assignee or trustee by deed, and guardian or trustee by will, and such appointment shall be of like force as in case of appointment of a natural person.

Second—To be appointed receiver, assignee, guardian, conservator, or other trustee by any court of record in this state, and it shall be lawful for such court to appoint such corporation as such receiver, assignee, guardian, conservator, or other trustee, in the manner provided by law for the appointment of any natural person to such trust. Provided, any such appointment as guardian or conservator shall apply to the estate only and not to the person.

Third—To act as the fiscal or transfer agent of any state, municipality, body politic or corporation, and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stocks, bonds or other indebtedness, and to act as

agent of any corporation, foreign or domestic, for any lawful purpose.

Fourth—To act as trustee under any mortgage or bond issued by any municipality, body politic or corporation, and accept and execute any other municipal or corporate trust not inconsistent with the laws of this state.

Fifth—To take, accept and execute any and all such trusts and powers of whatever nature or description, not in conflict with laws of the United States or of the state of South Dakota, as may be conferred upon or intrusted or committed to it by any person or persons or any body politic, corporation or other authority, by grant, assignment, transfer, devise, bequest, or otherwise, or which may be intrusted or committed or transferred to it or vested in it by order of any court of record, and to receive and take and hold any property or estate, real or personal, which may be the subject of any such trust, and to manage and dispose of such estate in accordance with the terms of such trust or power. Provided, that where it is necessary, according to law, that an oath be taken by a natural person before entering upon any trust or duty enumerated in this act, any officer of any corporation organized under this act shall have power to take the required oath for and on the part of such corporation.

Sixth—To act as agent of any person, firm or corporation for the investment of money in real and personal securities.

Seventh—To receive moneys and other property, real or personal, including notes, bonds, obligations of states, counties, towns, corporations, municipalities and individuals in trust; to accumulate interest thereon or allow and pay the same, and to purchase and sell all such property.

Eighth—To purchase, invest in and sell stocks, bills of exchange, bonds, mortgages, notes, and other securities; to loan money upon notes and bonds and upon real and personal security. Provided, that at no time shall the total amount of such loans exceed ten (10) times the combined capital and surplus of the corporation.

Ninth—To buy, sell, deal in, take charge of and rent real estate. Provided, that the amount invested in real estate shall not exceed one-half of the amount of capital paid in, but this proviso shall not apply to trust funds which may be invested in real estate, nor to such real estate as the corporation may acquire in satisfaction or partial satisfaction of debts due the corporation by any of its debtors. However, no real estate acquired in satisfaction of any debts shall be held for more than two (2) years from date of acquisition. The term "amount invested in real estate" shall include the total amount of all outstanding liens against any real estate purchased by any corporation organized under this act.

Tenth—To receive money on deposit, to be subject to check

or to be repaid in such manner and on such terms and with or without interest as may be agreed upon by the depositor and the said trust company.

§ 5. Directors] There shall be at least five directors for each corporation organized under this act, a majority of whom shall reside in the state of South Dakota. Every director must own in his own right at least five (5) shares of the capital stock of the corporation of which he is a director, which said five (5) shares of stock shall not be hypothecated in any way. Any director who ceases to be the owner of five (5) shares of stock shall thereby vacate his place.

§ 6. Capital Required] No corporation shall be organized under this act in towns or cities containing ten thousand (10,000) or less inhabitants with a capital less than twenty-five thousand (25,000) dollars; in towns or cities containing over ten thousand (10,000) and less than twenty-five thousand (25,000) inhabitants with a capital of less than fifty thousand (50,000) dollars; in cities or towns containing over twenty-five thousand (25,000) inhabitants the capital shall not be less than one hundred thousand (100,000) dollars, all of which shall be paid in before such corporation shall commence business.

§ 7. Responsibility of Shareholders] Each shareholder of every corporation organized under this act shall be individually liable for the debts, liabilities and obligations of said institution in an amount equal to twice the par value of the stock of said institution held by him on the books of said institution in his name.

§ 8. Amount of Shares] The capital stock of each corporation organized under this act shall be divided into shares of one hundred dollars (\$100) each and be deemed personal property and transferable on the books of the corporation in such manner as may be prescribed by the by-laws or articles of incorporation of such corporation. Every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all rights and liabilities of the prior holder of said shares, and no changes shall be made in the articles of incorporation by which the rights, remedies or security of the existing creditors of the corporation shall be impaired.

§ 9. Surplus] Before the directors of any corporation organized under this act shall declare any dividend, they shall pass ten per cent of the net profits then on hand to a surplus fund until the same shall amount to thirty (30) per cent of the capital stock.

§ 10. Bond]—

Sub-section "A." Before any corporation organized under this act shall undertake to execute any trust, as specified in this act, it shall execute a bond to the state of South Dakota in a penal sum equal to the amount of the capital stock of said corporation, conditioned to secure creditors against loss under all trusts undertaken

by said corporation, to be signed by at least three (3) sureties and approved by and filed with the secretary of state. Provided, however, that the bond of any surety company authorized to execute bonds in the state of South Dakota may be accepted by the secretary of state in lieu of the bond hereinbefore described.

Sub-section "B." The bond mentioned in sub-section "A" of this section shall be examined by the secretary of state once in two (2) years to ascertain that the sureties in the bond are good and sufficient, and said bond shall once in every six (6) years be renewed by the execution of a new bond with good and sufficient sureties as provided in the preceding sub-section "A." If at any time the secretary of state shall find the bond herein provided for, or the sureties thereon, to be insufficient to secure creditors in such manner as is provided in the preceding sub-section "A" of this section, he shall at once notify the public examiner and the corporation which has executed said bond as principal, and after such notice by the secretary of state no corporation organized under the provisions of this act shall accept any new trust until it shall have furnished a bond as required in preceding sub-section "A" of this section.

Sub-section "C." No bond further than the bond mentioned in the preceding sub-sections "A" and "B" of this section shall be required of any corporation organized under this act when said corporation shall be appointed assignee or trustee by deed, or guardian or trustee by will, or when such corporation shall be appointed receiver, assignee, guardian, conservator or other trustee by any court of record in this state. Provided, however, that when it shall be made to appear to any court which has jurisdiction over any several assigneeship, guardianship, receivership, conservatorship, or other trusteeship to which [such] corporation may have received an appointment, that the estate which is by such appointment placed in charge of such corporation exceeds in value an amount greater than three (3) times the combined capital and surplus of such corporation, then such court may, at its discretion, require an additional bond for the faithful discharge of the duties required of such corporation by such appointment. But such additional bond shall not exceed in amount a sum equal to the value of the estate involved, as such value shall be made to appear to such court, less an amount equal to three (3) times the combined capital and surplus of the corporation acting under appointment as prescribed in this sub-section.

§ 11. Loans] No corporation organized under this act shall make loans or discounts on its own shares unless necessary to prevent loss on debts previously contracted in good faith, and stock acquired in satisfaction of such debts shall be sold at public or private sale within six (6) months after acquirement. The total liability of any person, firm or corporation to any corporation organized

under this act shall not exceed fifteen (15) per cent of the combined capital stock and surplus. Provided, that this restriction shall not apply to first mortgage loans made on real estate worth not less than twice the indebtedness secured by such mortgage.

§ 12. Trust Funds] All funds and property, real or personal, received in trust by any corporation organized under this act shall be kept separate from other funds or property which may be in the possession of such corporation, and shall not be liable for the obligations of such corporation.

§ 13. Compensation] Corporations organized under this act shall be entitled to and shall be allowed proper compensation for all the services performed by them under the provisions of this act, but such compensation shall not exceed that allowed to natural persons for like services.

§ 14. Reserve] Each corporation organized under this act shall at all times have on hand in cash or on deposit in solvent banks an amount equal to ten (10) per cent of its time deposits, and twenty-five (25) per cent of its deposits payable on demand.

§ 15. Reports] The public examiner of South Dakota shall have ex-officio superintendence of all corporations organized under this act. He shall cause every such corporation to report to him not less than four (4) times during each year, according to the form which may be prescribed by him, verified by the oath of the president, vice president, secretary, treasurer, cashier or managing officer of such corporation, and attested by at least two of its directors. Every such report shall exhibit in detail and under appropriate heads: (a) The resources and liabilities of said institution at the close of business on any past day specified by the public examiner; (b) a list and brief description of the trusts held by such corporation, the source of appointment thereto and the amount of real and personal estate held by such company by virtue thereof, except that mere mortgage trusts wherein no action has been taken by said company shall not be included in such statement.

The said reports shall also contain such statements, returns and information as to the affairs, business condition and resources of the corporation as the said public examiner may from time to time prescribe or request, and shall be transmitted to the public examiner within seven (7) days after receipt of a request therefor from him.

An abstract of the said report showing the resources and liabilities of such corporation, in such form as may be prescribed by the public examiner, shall be printed in a newspaper published in the place where such corporation is established, or if there is no newspaper in the place, then in the one published nearest thereto in the same county, at the expense of the said corporation; and such proof of publication shall be furnished as may be required by the public examiner. The public examiner shall also have power to

call for special reports from any corporation organized under this act whenever in his judgment the same are necessary to enable him to have a full and complete knowledge of its conditions.

§ 16. Public Examiner to Visit Corporations Annually] It shall be the duty of the said public examiner, either personally or by his deputy, to visit and examine at least once in each year every corporation in this state organized under this act. The public examiner shall also have power, in like manner, to examine any such corporation whenever in his judgment it may be deemed necessary or expedient. On every examination inquiry shall be made as to the condition and resources of the corporation generally, the mode of conducting and managing its affairs, the action of its directors and investments of its funds, the safety and prudence of its management, the security afforded those by whom its engagements are held, and whether the requirements of its articles of incorporation and of the laws have been complied with in the administration of its affairs; a detailed report of the result of such examination shall be transmitted to the governor.

§ 17. Public Examiner May Cause Proceedings to be Instituted Against Corporations] Whenever it shall appear to the public examiner, from any such examination or report, that any such corporation has committed any violation of law, or is conducting its business in an unsafe or unauthorized manner, he shall by an order, under his hand and seal, direct the discontinuance of such illegal and unsafe or unauthorized practices and strict conformity with the requirements of the law, and with safety and security in its transactions, and whenever any such corporation shall refuse or neglect to make any such report as is hereinbefore required, or to comply with any such order as aforesaid, or whenever it shall appear to the public examiner that it is unsafe or inexpedient for any such corporation to continue to transact business, or that extraordinary withdrawals of money are jeopardizing the interests of remaining depositors, or that any trustee or officer has abused his trust or been guilty of misconduct or malversation in his official position, or of injuries to the institution, or that it has suffered a serious loss by fire, burglary, repudiation or otherwise, he shall communicate the facts to the governor, and with the approval of the governor shall also communicate the facts to the attorney general, who thereupon shall institute such proceedings against the corporation as the nature of the case may require.

§ 18. Charter May be Revoked] If the public examiner shall at any time have satisfactory evidence that any statement or report required or authorized under this act, to be made by any officer or officers of such corporation, is false, such corporation shall be deemed to have forfeited its charter, and any failure on the part of any such corporation to comply with, or any violation of the provisions of

this act, shall work a forfeiture of its charter, and in either case the attorney general upon demand of the public examiner shall commence an action for the purpose of annulling the existence of such corporation.

§ 19. Penalties] Any person or persons violating the provisions of this act not herein otherwise specially provided for, shall, upon conviction thereof, be fined not less than fifty dollars (\$50) and not more than five hundred dollars (\$500) for each offense, to be recovered before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the state treasury.

§ 20. Increase or Decrease of Capital Stock] Any corporation organized under this act may by its articles of incorporation provide for an increase of its capital stock from time to time as may be deemed expedient, subject to the rules and limitations of this act, but no increase of capital shall be allowed until the whole amount shall be paid in, in cash, and such payment certified under oath by the president, vice president, secretary, treasurer, cashier or managing officer of such corporation to the secretary of state, who shall give his certificate that the provisions of this section have been complied with, and specifying therein the amount of such increase of capital stock, with his approval thereof, that it has been duly paid in as a part of the capital thereof; any corporation formed under this act may by vote of its shareholders owning two-thirds of its capital stock, reduce its capital to any sum not below the amount required by this act to authorize the formation of such corporation, but no such reduction shall be made until the amount of the proposed reduction is reported to the secretary of state and his approval thereof obtained in writing, and no such reduction shall be construed as affecting the liability of shareholders for any debts of the corporation incurred prior to such reduction.

§ 21. Corporation—How Dissolved] Any corporation organized under the provisions of this act may be dissolved by the circuit court of the county where its office or principal place of business is situated, upon its voluntary application for that purpose. The application must be in writing and must set forth that at a meeting of the stockholders or members called for that purpose, the dissolution of the corporation was resolved upon by a two-thirds vote of all the stockholders or members, and that all claims and demands against the corporation have been satisfied and discharged. The application must be signed by the majority of the board of directors or other officers having the management of the affairs of the corporation, and must be verified in the same manner as a complaint in civil action. A verified copy of the application shall be filed with the public examiner within ten (10) days after the filing of such application with the circuit court. If the court is satisfied that the ap-

plication is in conformity with this act, it must order the application to be filed and that the clerk give not less than thirty (30) and not more than fifty (50) days' notice of the application by public issue in some newspaper published in the county, and if there are none such, then by advertisement posted up in five (5) of the principal places in the county.

At any time before the expiration of the time of publication, any person may file his objections to the application. Before the final hearing and determination of the application the public examiner shall make a thorough examination of the affairs of such corporation and file a certified statement of such examination with the clerk of the court of the county where such application is made, which statement shall be part of the papers in the case. After the time of publication has expired the court may, upon five (5) days' notice to the persons who have filed objections, or without further notice if no objections have been filed, proceed to hear and determine the application, and if all the statements therein made are shown to be true, the court must declare the corporation dissolved. No stockholder or officer of such corporation shall be allowed to withdraw from such corporation or surrender or dispose of his shares of stock after the filing or making of such application for dissolution and prior to the final determination of the case. Upon the dissolution of such corporation by the circuit court, the clerk of said court shall forthwith notify the secretary of state and the public examiner of such dissolution by sending a copy of the order of the court, and the said order and notice shall be filed by the secretary of state with the original certificate of organization. The application, notices and proof of publication, objections, if any, and declarations of dissolution constitute the judgment roll, and from the judgment an appeal may be taken in the same manner as in other actions.

§ 22. Corporate Existence May be Extended] Any corporation organized under this act may at any time within one (1) year next previous to the expiration of the period for which it was incorporated extend its period of succession by amending its articles of incorporation for a term of not more than twenty (20) years from the expiration of the period of succession named in said articles of incorporation, and shall have succession for such extended period, unless sooner dissolved by the act of the shareholders owning two-thirds of the stock or unless its franchise becomes forfeited by some violation of law, or unless hereafter modified or repealed; such amendment of said articles of incorporation shall be authorized by the consent in writing of shareholders owning not less than two-thirds of the capital stock of the corporation; and the board of directors shall cause such consent to be certified under the seal of the corporation, by its president or secretary, to the secretary of state, accompanied by an application made by the president or secretary

for the approval of the amended articles of incorporation by the secretary of state, and such amended articles of incorporation shall not be valid until the secretary of state shall give to such corporation a certificate under his hand and seal that the corporation has complied with the provisions of this section and is authorized to have succession for the extended period named in the amended articles of incorporation; and the secretary of state shall not give such certificate until he shall receive from the public examiner a certificate that said corporation has complied with all the requirements of his office.

§ 23. Existing Corporations May Undertake Trusts] Any corporation which, previous to the enactment of this law, shall have been granted any of the trust powers granted by this act, may avail itself of the privileges of trust companies organized under this act by complying with the requirements of this act, and may amend its articles of incorporation or association to conform herewith without renewal of its charter and without re-incorporating.

§ 24. Repeal] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 10, 1905.

COUNTY AUDITORS

CHAPTER 75

(H. B. 14)

RELATING TO TIME WHEN AND TERM OF OFFICE OF CERTAIN OFFICERS SHALL BEGIN

AN ACT to Amend Section 1796 of the Revised Political Code of 1903 of South Dakota, Relating to the Time When and Term of Office of Certain Officers Shall Begin.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 1796 of the Revised Political Code of 1903 of South Dakota be and is hereby amended so as to read as follows:

Section 1796. Except when otherwise specially provided, the regular term of office for all county, township and precinct officers,

when elected for a full term, shall commence on the first Monday in January next succeeding their election, except the office of county auditor, the term of which shall begin on the first Monday of March next succeeding said election; but if the office to which any officer was elected be vacant at the time of election, or becomes vacant after said election, even if he was not elected to fill a vacancy, he shall forthwith qualify and enter upon the duties of his office.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. Whereas, an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 11, 1905.

COUNTY BOARD OF HEALTH

CHAPTER 76

(H. B. 79)

RELATING TO COUNTY BOARDS OF HEALTH

AN ACT to Amend Section 252 of the Revised Political Code of South Dakota of 1903, Relating to Compensation of the Superintendent and Other Members of the County Board of Health.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 252 of the Revised Political Code of the state of South Dakota, 1903, be and is hereby amended to read as follows:

The president of the county board of health shall receive no other compensation than that which is provided for. He shall receive five cents for every mile actually and necessarily traveled in the performance of his duties as member of said board. The superintendent of the county board of health shall receive ten cents per mile for every mile actually and necessarily traveled in the performance of his duties, which mileage shall be in lieu of all compensation for traveling expenses that said superintendent shall receive, and the superintendent, or vice president of the county board

if he performs the duties of the superintendent, shall receive such other sums as the board of county commissioners may allow. Provided, that for each examination necessarily made of persons who are afflicted with smallpox, diphtheria, scarlet fever, anthrax, Asiatic cholera, yellow fever and bubonic plague, the superintendent, or the vice president of the county board, if he performs the duties of superintendent, shall also receive not to exceed the sum of five dollars (\$5.00) for every visit actually and necessarily made. The superintendent shall also receive the sum of fifty cents for each monthly report to the superintendent of the state board of health of the health conditions of the county, and he or the vice president if he performs the duty of the superintendent, shall further receive such other sum or sums as he may pay or become liable to pay for medicine, chemicals, drugs or appliances in carrying out and performing the various duties imposed upon him under the provisions of this article, which, together with other expenses, shall be audited by the county board of health and certified to by the county commissioners of the county and paid as other county expenses.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1905.

COUNTY COMMISSIONERS

CHAPTER 77

(H. B. 46)

RELATING TO COMPENSATION OF COUNTY COMMISSIONERS

AN ACT Entitled an Act Providing for the Compensation of County Commissioners.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. County commissioners shall each be allowed for the time they shall actually and necessarily be employed in the duties of their office the sum of four dollars per day, and five cents per mile

for the distance actually traveled in attending the meetings of the board, or when engaged in other official duties, to be paid out of the general county fund.

Provided, however, that no county commissioner shall receive more than two hundred dollars as per diem, nor more than forty dollars as mileage, during any one year in counties containing thirty government townships or less.

Provided, that in counties containing more than thirty government townships and not to exceed forty government townships, no county commissioner shall receive more than two hundred and sixty dollars as per diem, nor more than fifty dollars as mileage, during any one year.

Provided, further, that in counties containing more than forty government townships, no county commissioner shall receive more than three hundred dollars as per diem, nor more than sixty dollars mileage, during any one year.

Provided, that in any county having a population of 20,000 or more, a county commissioner may receive three hundred dollars as per diem and sixty dollars mileage, during any one year.

All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 7, 1905.

COURTS

CHAPTER 78

(H. B. 81)

FIXING TERMS OF COURT IN FOURTH JUDICIAL CIRCUIT

AN ACT Fixing the Terms of Court in the Fourth Judicial Circuit.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Terms of Court, When Held] The terms of court shall be held annually in each of the counties comprising the fourth judicial circuit as follows:

In Aurora county on the first Tuesday in February and the

second Tuesday in October; in Hanson county on the third Tuesday in February and the third Tuesday in November; in Davison county on the fourth Tuesday in April and the second Tuesday in November; in Brule county on the first Tuesday in March and the fourth Tuesday in November; in Sanborn county on the second Tuesday in May and the second Tuesday in December; in Buffalo county on the first Tuesday in June; in Lyman county on the second Tuesday in June and the first Tuesday in January; in Jerauld county on the fourth Tuesday in September.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. Emergency] Whereas, an emergency exists and is hereby declared to exist, this act shall take effect and be in force immediately from and after its passage and approval.

Approved March 6, 1905.

CHAPTER 79

(S. B. 185)

RELATING TO TERMS OF COURT IN SECOND JUDICIAL CIRCUIT

AN ACT Entitled an Act to Amend Section 654 of the Revised Political Code of 1903, Relating to Terms of Court in the Second Judicial Circuit.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 654 of the Revised Political Code of 1903 be and the same is hereby amended so as to read as follows: .

Section 654. The second judicial circuit shall consist of the counties of Lincoln, Minnehaha, McCook, Moody, Lake and Union, and terms of the circuit court shall be held annually in each of such counties as follows: Lincoln county on the first Monday in February and the first Monday in September; Lake county on the fourth Monday in February and the first Monday in October; Moody county on the fourth Monday in March and the third Monday in October; Union county on the second Monday in March and the third Monday in September; McCook county on the second Monday in April and the second Monday in November; Minnehaha county on the fourth Monday in April and the third Monday in November.

§ 2. An emergency is hereby declared to exist, and this act shall take effect from and after its passage and approval.

§ 3. All acts and parts of acts in conflict with the provisions of the foregoing act are hereby repealed.

Approved March 6, 1905.

CHAPTER 80

(S. B. 106)

RELATING TO TERMS OF COURT IN EIGHTH JUDICIAL CIRCUIT

AN ACT Entitled an Act to Amend Section 660 of the Revised Political Code of 1903, as Amended by Chapter 112, Session Laws 1903, Relating to the Eighth Judicial Circuit of the State of South Dakota and the Terms of Court to be Held Therein.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 660 of the Revised Political Code of 1903 be amended, and the same is hereby amended, so as to read as follows:

Section 660. Amendment] The eighth judicial circuit shall consist of the counties of Lawrence, Meade and Butte, and the terms of the circuit court shall be held in each year in said counties as follows: Lawrence county on the second Tuesdays in February and September; Meade county on the third Tuesday in April and the first Tuesday in November; Butte county on the first Tuesday in April and fourth Tuesday in November.

§ 2. Repeal] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. Emergency] Whereas, an emergency exists, this act shall be in force from and after its passage and approval.

Approved March 6, 1905.

CHAPTER 81

(H. B. 111)

RELATING TO THE DETERMINING ADVERSE CLAIMS TO REAL ESTATE

AN ACT Entitled an Act to Amend Chapter 194 of the Session Laws of 1903, Relating to the Determining Adverse Claims to Real Estate, and for Quieting Title Thereto by Action in the Circuit Court, and for Making Unknown Persons and the Heirs at Law and Devisees and Legatees, and Creditors, and Executors and Administrators of Deceased Persons, Parties Defendants Thereto.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Chapter 194 of the Session Laws of South Dakota for 1903 be and hereby is amended to read as follows:

Section 1. An action may be maintained by any person or persons having or claiming to have an estate or a lien upon or interest in any real property, whether in or out of possession thereof, and whether said property is vacant or occupied, against any person or persons claiming an estate or interest in or lien or incumbrance upon the same, for the purpose of determining such adverse estate, interest, lien or incumbrance, and against all persons who appear, from the records in the office of the register of deeds, the office of the county treasurer or of the clerk of courts in the county where the land lies or other public records, to have or to have ever had any estate or interest in or lien or incumbrance upon such lands, and against the executors, administrators, heirs at law, devisees, legatees and creditors, of any such person or persons who may be deceased, whether such executors, administrators, heirs at law, devisees, legatees and creditors be known or unknown, and generally against all persons unknown who may have or claim to have any estate or interest in or lien or incumbrance upon such real property, for the purpose of quieting the title to such real property and of determining such estate, interest, lien or incumbrance.

§ 2. In such action all persons who have or claim to have any estate or interest in or lien or incumbrance upon the premises, and all persons who shall appear of record as set forth in section one of this act to have or to have ever had any estate or interest in or lien or incumbrance upon such real property or any part thereof, may be made defendants by name, and, if any such person be dead, the heirs at law, devisees and legatees of such person, and the executor or administrator of such deceased person, if one has been appointed, whether such appointment has been made by a court of this state, or of any other state of the United States, or foreign country, may also be made defendants by name if known, and served with sum-

mons as hereinafter provided, and if any such heirs at law, devisees or legatees be unknown or uncertain or not ascertainable by the use of due diligence, or if it be unknown or uncertain or not ascertainable by the use of due diligence whether an executor or administrator has been appointed for such deceased person, such unknown or unascertained heirs, devisees and legatees, and the executor or administrator of such deceased person may be made defendants as "the unknown heirs, devisees, legatees and the executor or administrator of....., deceased," inserting the name of said deceased; and the creditors of any such deceased person may also be made defendants in such action by designating them in the summons and complaint as "the creditors of.....deceased," inserting the name of such deceased; and in such action all other persons who may have any interest in or lien or incumbrance on the premises may be made parties as unknown defendants generally by designating them in the summons and complaint as "all persons unknown who have or claim to have any estate or interest in or lien or incumbrance upon the premises described in the complaint."

§ 3. It shall be necessary for the plaintiff to state in general terms in his complaint in such action only that he has or claims title in fee to the property (or a lien upon or interest therein as the case may be), which property must be described with sufficient certainty to enable an officer on execution to identify it, that the defendants are proper parties under the provisions of this act, and that the action is brought for the purpose of determining all adverse claims to such property and of quieting the title hereto [thereto] in the plaintiff (or of determining the liens or interest of all parties in and to such property, as the case may be). The plaintiff may also allege that he is entitled to the possession of the property, and may allege any facts concerning the use and occupation and the rents, issues and profits of the property and the value thereof, which may be pertinent. The complaint shall also contain a prayer for the relief to which the plaintiff deems himself entitled, and shall call upon the defendants to set forth all their adverse claims to the property described. The defendant in his answer must set forth fully and particularly the origin, nature and extent of his claim to the property; and may set forth his rights in the property as a counter-claim and demand affirmative relief. The provisions of the Code of Civil Procedure shall apply to actions under this act so far as not in conflict herewith respecting improvements, possession and rents, issues and profits of the premises.

§ 4. The court shall have jurisdiction in such action to determine who are the heirs at law, devisees and legatees of any deceased person who had in his life time any interest in or lien or incumbrance on the premises involved between themselves, as well as with respect to the rights of the plaintiff, and to make an adjudication

upon the rights of such heirs, devisees and legatees and of all creditors of such deceased persons in and to such premises, which shall be valid and binding upon them and upon all the world, and if such heirs at law, devisees and legatees of such deceased person and the creditors of such deceased person and the unknown defendants in said action, or any of them, shall fail to appear in such action and set forth and assert their interest in or claim to the premises involved, they shall be by the judgment and decree of the court forever barred and enjoined from thereafter claiming or asserting any title or interest in or lien or incumbrance upon or claim to the premises involved in the action. From the time of the publication of the summons, as hereinafter directed, the circuit court shall have jurisdiction of the estate of any such deceased person, to make final settlement thereof, so far as may be necessary to a complete determination of the title to the premises involved, or of the interest or lien of any party or parties therein.

§ 5. The action shall be commenced by the filing of a complaint in the clerk's office and the issuance of summons, which, after the title of the action, shall be substantially in the following form:

"The State of South Dakota to the above named defendants:

"You are hereby summoned and required to answer the complaint of the plaintiff, which was filed in the office of the clerk of this court at.....in.....county, South Dakota, on the.....day of.....19.., and which prays for a judgment quieting the title to and the determination of all adverse claims against the premises described in the complaint (or "which prays for a judgment determining all interests to and liens against the premises described in the complaint," as the case may be), situate in said county, to-wit:.....and to serve a copy of your answer to said complaint on the undersigned at their office in..... within thirty days after the completed service of this summons upon you, exclusive of the day of such service; and if you fail to answer said complaint within that time, the plaintiff will apply to the court for the relief demanded in the complaint.

"....."

Attorneys for Plaintiff."

§ 6. The summons shall be served upon all the defendants who are specified by name in the summons and complaint either personally or by publication, in the manner provided in the Code of Civil Procedure. The court may also grant an order for service of summons by publication upon all the unknown defendants, whether such unknown defendants be made parties as the unknown heirs, legatees, executor or administrator of a deceased person, or as creditors of such deceased person, when it shall be made to appear by affidavit to the satisfaction of the court or judge thereof that such

defendants are unknown or cannot after due diligence be ascertained, or that it is uncertain and cannot, after due diligence, be ascertained whether said deceased had any heirs, or appointed any legatees or devisees, or whether any executor or administrator has been appointed for the estate, or whether he had any creditors. The court may also grant an order for service of summons by publication upon "all persons unknown who claim to have any estate or interest in or lien or incumbrance upon the premises described in the complaint," and not included in any of the foregoing classes of defendants, upon the filing of an affidavit by the plaintiff or his attorney stating that if there are any persons other than the defendants who are named in the summons and complaint or specified therein as heirs, legatees, devisees, executor or administrator or creditors of a deceased person, such persons are unknown. Service pursuant to such order of publication shall be made in the manner provided by the Code of Civil Procedure. Provided, however, that deposit of a copy of the summons and complaint in the postoffice shall not be required as to unknown defendants, but publication alone shall be sufficient, which publication shall be equivalent to a personal service on such unknown party or parties.

§ 7. Immediately after the filing [of] the complaint in the circuit court, the plaintiff must record in the office of the register of deeds of the county or of the several counties in which the property is situated, a notice of the pendency of the action, containing the title of the case, the object of the action and a description of the property to be affected thereby. From the time of filing such notice for record all persons shall be deemed to have notice of the pendency of the action.

§ 8. Any creditor of any deceased person, made as party defendant to such action as hereinbefore provided may set forth in his answer, duly verified by oath, his claim against such deceased, and if the amount and validity of such claim be established upon the trial and it be also established that the estate of said deceased has never been administered and that the premises involved in the action are subject to the payment of such claims, the said claimant may have judgment in the action for the amount of his claim and taxable costs against the premises involved in the action, and unless the same shall be paid by the plaintiff or some other party to the action having the right to pay the same within such time as shall be prescribed by the judgment of the court, the said premises may be sold to pay the same upon the notice and in the manner provided by law for sales of real property on execution.

§ 9. The court may, in its discretion, and upon such terms as may be just, at any time within two years after the entry of judgment, relieve a defendant in such action from the judgment if taken against him through his mistake, inadvertence, surprise or excusable

neglect, and allow such party to defend the action, but the defense, if successful, shall be without prejudice to the rights of a purchaser in good faith of the premises from the said plaintiff after the entry of such judgment, and before the making of the order permitting such defendant to defend. Before the entry of judgment in such action, the plaintiff must execute a bond of indemnity to the defendants in the said action who shall be served by publication, with sufficient surety to be approved by the court, in such sum as the court shall direct, conditioned that if any defendant shall be permitted to defend after judgment, as herein provided, and such defense shall be successful, that the plaintiff will pay to such defendant the value of his interest in said premises, and his costs of defending the action.

Provided, however, that personal service of the summons and complaint outside of this state, in the manner provided by the laws of this state, shall, for the purposes of this section, be deemed personal service and not service by publication.

§ 10. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 11. Whereas, an emergency exists and is hereby declared to exist, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 25, 1905.

CHAPTER 82

(S. B. 26)

RELATING TO COSTS IN ACTIONS

AN ACT Entitled An Act to Amend Section 102, of Chapter 8, of the Revised Code of Civil Procedure of the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Section 102, of Chapter 8, of the Revised Code of Civil Procedure is hereby amended so as to read as follows:

Section 102. If an action is brought in the wrong county, and the defendant, before answer, demands a change of place of trial to the proper county, the court shall order the same at the cost of the plaintiff, and may award the defendant a reasonable compensation for his trouble and expense in attending at the wrong county; and if the sum so awarded and costs are not paid to the clerk by a time to be fixed by the court, or if the papers in such case are not filed by the plaintiff in the court to which the change is ordered ten days

before the first day of the next term thereof, or if ten days do not intervene between the making of said order and the first day of the next term of said court, ten days preceding the first day of the next succeeding term thereof, in either event the action shall be dismissed. The court may change the place of trial in the following cases:

1. When the county designated for that purpose in the complaint is not the proper county.

2. Where there is reason to believe that an impartial trial cannot be had therein.

3. When the convenience of witnesses and the ends of justice would be promoted by the change.

When the place of trial is changed all other proceeding shall be had in the county to which the place of trial is changed, unless otherwise provided by the consent of the parties, in writing, duly filed, or by order of the court; and the papers shall be filed or transferred accordingly.

§ 2. All acts and parts of acts in conflict with the provision of this act are hereby repealed.

Approved February 21, 1905.

CHAPTER 83

(H. B. 96)

RELATING TO SALES OF REAL AND PERSONAL PROPERTY BY EXECUTORS AND ADMINISTRATORS

AN ACT to Amend Sections 201, 203, 204, 207 and 208, of the Revised Probate Code of the State of South Dakota, Relating to Sales of Real and Personal Property by Executors and Administrators.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Section 201 of the Revised Probate Code of South Dakota be and the same is hereby amended to read as follows:

Section 201. When a sale of property of the estate is necessary to pay the allowance of the family, or the debts outstanding against the decedent, or the debts, expenses or charges of administration, or legacies; or when it appears to the satisfaction of the court that it is for the advantage, benefit and best interests of the estate and those interested therein, that the real estate, or some part thereof be sold, the executor or administrator may sell any real as well as personal property of the estate, upon the order of the county court,

and an application for the sale of real property may also embrace the sale of personal property.

§ 2. That section 203 of the Revised Probate Code of the state of South Dakota be and the same is hereby amended to read as follows:

Section 203. If it appears to the court or judge from such petition that it is necessary or that it would be for the advantage, benefit and best interests of the estate, and those interested therein, to sell the whole or some portion of the real estate, for the purposes and reasons mentioned in the preceding section, or any of them, such petition must be filed, and an order thereupon made, directing all persons interested in the estate to appear before the court at a time and place specified, not less than four nor more than ten weeks from the time of making such order, to show cause why an order should not be granted to the executor or administrator for the sale of such estate.

§ 3. That section 204 of the Revised Probate Code of the state of South Dakota be and the same is hereby amended to read as follows:

Section 204. A copy of the order to show cause must be personally served on all persons interested in the estate, any general guardian of a minor so interested, and any legatee or devisee, or heir of the decedent, who are residents of the county, at least ten days before the time appointed for hearing the petition; and on all such persons in interest who reside without the county, whether within or without the state, such service must be made by like personal service or by publication for four successive weeks in such newspaper of the county as the court or judge shall direct. If all persons interested in the estate join in the petition for the sale, or signify in writing their assent thereto, the notice may be dispensed with and the hearing may be had at any time.

§ 4. That section 207 of the Revised Probate Code of the state of South Dakota be and the same is hereby amended to read as follows:

Section 207. If it appears to the satisfaction of the court, or a judge thereof, that it is necessary or that it is for the advantage, benefit and best interests of the estate and those interested therein, to sell a part of the real estate, and that by a sale thereof the residue of the estate, real or personal, or some specific part thereof, would be greatly injured or diminished in value, or subjected to expense, or rendered unprofitable, or that after any such sale the residue would be so small in quantity or value, or would be of such a character with reference to its future disposition, among the heirs or devisees, as clearly to render it for the best interests of all concerned that the same should be sold, the court may authorize the sale of the whole estate, or any part thereof, as in the judgment of the court is necessary, or to the advantage, benefit or best interests of the estate, and those interested therein.

§ 5. That section 208 of the Revised Probate Code of the state of South Dakota be and the same is hereby amended to read as follows:

Section 208. If it appears to the satisfaction of the court, after a full hearing upon the petition and an examination of the proofs and allegations of the parties interested, that a sale of the whole or some portion of the real estate is necessary for any of the causes mentioned in this article, or that a sale of the whole or some portion of the real estate is for the advantage, benefit and best interests of the estate and those interested therein, or if such sale be assented to by all the persons interested, an order must be made to sell the whole, or so much and such parts of the real estate described in the petition as the court shall judge necessary, or for the advantage, benefit and best interests of the estate and those interested therein. A sale of real property may also be ordered for the sole purpose of paying a debt secured by mortgage or lien on such property, which has been presented and allowed. In such case, the petition need not set forth or refer to the personal estate, or any other debt, or expense of administration, or any other real property than that so petitioned to be sold.

§ 6. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 24, 1905.

CHAPTER 84

(H. B. 104)

RELATING TO DUTIES OF CIRCUIT JUDGES

AN ACT Entitled an Act to Amend Section 34 of the Revised Code of Civil Procedure of the State of South Dakota, Relating to Duties of Circuit Judges.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section 34 of the Revised Code of Civil Procedure of the state of South Dakota be and the same is hereby amended to read as follows:

Section 34. It shall be the duty of the several circuit court judges of this state, when not otherwise officially engaged, to hold terms of court in-circuits other than those to which they have been elected, and to hear and determine at chambers any motion, application or several proceeding, arising in such other circuits, upon the

request of the judge of any circuit in which any cause, motion, application or special proceeding is at issue or pending, in which the judge of such circuit is interested, disqualified or from any cause whatever unable to act; also to hold such terms and to hear and determine all such matters at chambers in case of the temporary absence or removal of any judge from the circuit to which he may have been elected, and it shall be lawful, and the judges of the said circuit courts of the several circuits are hereby authorized to hold terms of court, to hear, try and determine at chambers, any motion, application or special proceeding in circuits other than the one to which they have been elected, upon the request of, or agreement with, the judge of such other circuit, whether or not the said judge be absent, unable to act or disqualified, and for the purpose of carrying out the foregoing provisions hearings may be had at chambers, and court may be held in one or more counties of the same circuit at one and the same time. The regularly appointed court stenographer or reporter of any such judge, acting in circuits other than his own, is authorized to act the same as in the circuit for which he is appointed.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 28, 1905.

CHAPTER 85

(S. B. 32)

RELATING TO THE DUTIES OF CLERKS OF COUNTY COURTS

AN ACT Entitled an Act to Amend Section 435 of the Revised Probate Code of 1903, Relating to the Duties of Clerks of County Courts.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section 435 of the Revised Probate Code of 1903 be amended to read as follows:

Section 435. Wherever in this Probate Code provision is made for the making of copies of or the filing of any records or papers, or the retaining the custody of the same, by the county judge or in the county court, such provisions shall be deemed and held to mean that the clerk of the county court, if there be one, shall do and perform such duties, and the clerks of such county courts shall perform such other duties relating to the business of the county courts as are prescribed by law.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 1, 1905.

CHAPTER 86

(S. B. 197)

RELATING TO STATE'S ATTORNEYS APPEARING BEFORE THE GRAND JURY

AN ACT Entitled an Act to Amend Section 194 of the Revised Code of Criminal Procedure of 1903, Relating to State's Attorneys Appearing Before the Grand Jury.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section 194 of the Revised Code of Criminal Procedure of 1903 be amended so as to read as follows:

Section 194. The grand jury may at all reasonable times ask the advice of the court or of the state's attorney. The state's attorney may at all times appear before the grand jury for the purpose of giving information or advice relative to any matter cognizable before them, and may interrogate witnesses before them whenever he thinks it necessary, but no other person is permitted to be present during the session, except the members and a witness actually under examination, and no person whomsoever must be permitted to be present during the expression of their opinions, or the giving of their votes upon any matter before them. Provided, that when it shall appear to the court that there is about to be submitted to the grand jury for their investigation any charge of felony, misdemeanor or misconduct in office against the state's attorney, it shall be the duty of the court to appoint some suitable attorney to perform the duties of state's attorney relative to such charge, and the court shall inform the grand jury of such charge and of the appointment of such attorney. The state's attorney shall not be present during the consideration of such charge against him, except that the grand jury may hear any statement which the accused may desire to make in relation thereto.

§ 2. Repeal] All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. Emergency] An emergency exists and is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1905.

CHAPTER 87

(H. B. 182)

RELATING TO CRIMINAL ACTIONS AGAINST CORPORATIONS

AN ACT Entitled an Act to Amend Sections 560, 561, 564, 565 and 566 of the Revised Code of Criminal Procedure of South Dakota, Relating to Criminal Actions Against Corporations.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 560 of the Code of Criminal Procedure of South Dakota be amended to read as follows:

Section 560. Upon a presentment against a corporation, or the filing of a complaint or information against a corporation, the magistrate must issue a summons signed by him with his name of office, requiring the corporation to appear before him at a specified time and place to answer the charge, the time to be not less than ten days after the issuing of the summons.

§ 2. That section 561 of the Code of Criminal Procedure of South Dakota be amended to read as follows:

Section 561. The summons must be in substantially the following form: County of..... In the name of the State of South Dakota. To the (naming the corporation): You are hereby summoned to appear before me at (naming the place) on (specifying the date and hour) to answer to the charge made against you upon the presentment of the grand jury of the county of..... or the information or complaint of..... for (designating the offense generally). Dated at the city or town of..... the..... day of, 19.... G. H., Justice of the Peace (or as the case may be).

§ 3. That section 564 of the Code of Criminal Procedure of South Dakota be amended to read as follows:

Section 564. After hearing the proofs the magistrate must certify upon the depositions or the complaint or information, either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the depositions or the complaint or information and certificate in the same manner prescribed in section 158.

§ 4. That section 565 of the Code of Criminal Procedure of South Dakota be amended to read as follows:

Section 565. If the magistrate return a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the state's attorney shall file the information, or the grand jury may proceed thereon, as in the case of a natural person held to answer.

§ 5. That section 566 of the Code of Criminal Procedure of South Dakota be amended to read as follows:

Section 566. If an indictment be found or information filed, the corporation may appear by counsel to answer the same. If it do not thus appear, a plea of "not guilty" must be entered, and the same proceedings had thereon as in other cases.

§ 6. All acts and parts of acts in conflict with this act are hereby repealed.

§ 7. Whereas, there is no adequate law covering this subject an emergency is hereby declared to exist, and this law shall take effect and be in force from and after its passage and approval.

Approved March 7, 1905.

CHAPTER 88

(H. B. 175)

RELATING TO CLERKS OF THE COUNTY COURT

AN ACT to Empower the Clerk of the County Court to Adjourn Matters Coming Before Said Court, or the Judge Thereof, When the Judge is Absent or from Any Cause Unable to Attend.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Whenever the judge of the county court is absent from the county seat or is prevented or delayed from any cause from attending to his duties, or in case of the death of the judge of said court, the clerk of said court may, by an order in writing signed by him as such clerk, adjourn any hearing that may have been heretofore set for such date or may adjourn the hearing of any matter that may come before the court or the judge thereof on such date, whether within the civil, criminal or probate jurisdiction thereof, to such time as he may deem proper. Provided, that in fixing the time of such adjournment he shall be guided by the directions of the judge, if any, theretofore given him, either verbally or in writing. Provided, further, that no such adjournment shall be for a longer period than thirty days.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1905.

CHAPTER 89

(H. B. 184)

RELATING TO JUSTICES OF THE PEACE.

AN ACT Entitled "An Act Conferring Jurisdiction on Justices of the Peace In All Cases of Assault, Assault and Battery and Petit Larceny."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That justices of the peace shall have and exercise jurisdiction in all prosecutions for assault, assault and battery and petit larceny, and to hear, try and determine the same and to enter judgment therein, subject to appeal by defendant, as in other cases provided.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. Whereas, an emergency exists, and is hereby declared to exist, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1905

CHAPTER 90

(S. B. 155)

RELATING TO STATE'S ATTORNEY

AN ACT Entitled an Act to Amend Section 934 of the Political Code of the State of South Dakota, Revision of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 934, Political Code of the state of South Dakota, revision of 1903, be and the same is hereby amended so as to read as follows:

Section 934. The circuit court, whenever there shall be no state's attorney for the county, or when the state's attorney is absent or unable to attend to his duties, or is adversely interested or disqualified, or when in the opinion of the court the ends of justice would be promoted thereby, may appoint by an order, to be entered in the minutes of the court, some suitable person, an attorney at law, to perform for the time being the duties required by law to be performed by the state's attorney, and the person so appointed shall thereupon be vested with all the powers of such state's attorney for that purpose; and the circuit court shall by an order in the minutes of the court, fix his fees therefor, which amount shall be allowed by the county commissioners, and which amount when so ordered by the court shall be deducted from the salary of the state's attorney. Nothing in this section shall be so construed as to give the court the power to permanently fill vacancies in such office, but such power is vested in the board of county commissioners, as is elsewhere provided for in this code.

§ 2. Whereas, there is now no sufficient law upon the subject embraced in the foregoing act, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Note by the Secretary of State: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

D. D. WIFE,
Secretary of State.

CHAPTER 91

(S. B. 152)

RELATING TO GUARDIANS

AN ACT Entitled an Act to Amend Sections 408 and 410 of the Probate Code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 408 of the Probate Code of 1903 be and the same is hereby amended so as to read as follows:

Section 408. The guardian of any minor, or insane or incompetent person, or of any other person, or of his property, or both, in this state, may by leave of the county court mortgage the

real estate of the ward. If the ward be a minor, such mortgage shall be for a term of years not exceeding the minority of the ward, and the time of maturity of the indebtedness secured by such mortgage shall not be extended beyond the time of minority of the ward.

§ 2. That section 410 of the Probate Code of 1903 be and the same is hereby amended so as to read as follows:

Section 410. Foreclosures of mortgages authorized by this article shall only be made in the circuit court after and on an order granted by the county court of the county where letters of guardianship were granted, or, in case of non-resident wards, in the county in which the premises, or some part thereof, are situated, in which proceeding the guardian and ward shall be made defendants, and any sale made by virtue of any order or decree of foreclosure of such mortgage may at any time before confirmation be set aside by the court for inadequacy of price or other good cause, and shall not be binding upon the guardian or ward until confirmed by the court.

§ 3. Emergency] An emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Note by the Secretary of State: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

D. D. WIPF,
Secretary of State.

CHAPTER 92

(S. B. 198)

RELATING TO GRAND JURIES

AN ACT Entitled an Act to Amend Section 162 of the Revised Code of Criminal Procedure of 1903, Relating to Grand Juries.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section 162 of the Revised Code of Criminal Procedure of 1903 be and the same is hereby amended to read as follows:

Section 162. No grand jury shall be drawn, summoned or required to attend at the sitting of any circuit court within this state unless the judge thereof shall so direct by writing, signed by him and filed with the clerk of the circuit court of the county for which said grand jury is called, which order may be made by the judge of

said court whenever it shall appear to his satisfaction that a grand jury is necessary or desirable for the investigation of public offenses or misconduct in office.

§ 2. Repeal] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 8, 1905.

CHAPTER 93

(S. B. 228)

RELATING TO EXECUTIONS

AN ACT Entitled an Act to Amend Section 81 of the Revised Justice Code of 1903, Relating to Issuance of Executions on Judgment of Justice of the Peace.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 81 of the Revised Justice Code of 1903 be amended to read as follows:

Section 81. Execution for the enforcement of a judgment of a justice's court may be issued by the justice who entered the judgment, or his successor in office, on the application of the party entitled thereto, at any time within five years from the entry of judgment, except when it has been taken to the circuit court on error or appeal, or docketed therein.

Provided, that when a duly certified transcript of such judgment has been filed in the office of the clerk of the circuit court, as provided in section 325 of the Revised Code of Civil Procedure, execution may be issued thereon at any time within ten years from the date of said judgment, and in like manner as provided for issuance of execution upon judgments rendered in the circuit court.

§ 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 8, 1905.

CHAPTER 94

(S. B. 59)

RELATING TO JUSTIFICATION OF SURETIES ON ARREST AND BAIL

AN ACT to Amend Section No. 171 of the Code of Civil Procedure as Contained in the Revised Codes of South Dakota of 1903, Relating to the Justification of Sureties on Arrest and Bail.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 171 of the Code of Civil Procedure be amended so as to read as follows:

Section 171. On receipt of such notice the sheriff or defendant may, within ten days thereafter, give to the plaintiff or attorney by whom the order of arrest is subscribed, notice of the justification of the same or other bail, specifying the place of residence and occupation of the latter, before the clerk of the circuit court of the county where the action is pending, or the judge thereof, at a specified time and place; the time to be not less than five nor more than ten days thereafter. In case other bail is given there shall be a new undertaking in the form prescribed in section 165 of this code.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 8, 1905.

CHAPTER 95

(S. B. 243)

RELATING TO JURISDICTION OF COURTS

AN ACT Attaching that Part of South Dakota Lying South of Union County and North of the Middle of the Main Channel of the Missouri River, as Now Existing, to Union County for Judicial Purposes.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That all of that portion of the state of South Dakota lying between the southern boundary of Union county, South Dakota, and the southern state boundary of South Dakota, along the middle of the main channel of the Missouri River, as now existing, be and the same is hereby attached to Union county, South Dakota, for judicial purposes.

§ 2. An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1905.

DAMS

CHAPTER 96

(S. B. 213)

RELATING TO DAMS

AN ACT Prescribing the Duties of the Owners of Dams Now Existing or that May Hereafter be Constructed Across the Rivers or Streams of This State in Reference to Fish Shutes and Waste Gates, and Prescribing Remedies and Penalties Therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. There shall be erected and maintained in each dam now existing, or which may hereafter be constructed, across any stream of water in this state, sufficient and permanent fish shutes to admit of the free and uninterrupted passage of fish through such dams, and also sufficient and permanent waste gates so constructed that they may be readily raised or removed and sufficient to carry off the unnecessary overflow and stagnant waters above said dams during the months of March, April, May and June in each and every year. Such fish shutes and waste gates shall be put in and constructed under the directions of the board of commissioners of the county where such dam may be located.

§ 2. It shall be the duty of the owner or occupant of any dam across any of the water streams in this state and the owner of any dam hereafter constructed for any purpose whatever to erect in such dams permanent fish shutes to admit of the free and uninterrupted passage of fish, and if such fish shutes be not sufficient to carry off the unnecessary overflow and the stagnant waters above said dam, then such owner or occupant shall erect and maintain in such dam a permanent water gate or gates sufficient to carry off the unnecessary overflow or stagnant waters above such dam. Such fish shutes

and waste gates shall be constructed of such material and in such manner as shall be perscribed by the board of commissioners of the county where such dam is located. All of such fish shutes and waste gates shall be maintained and kept in good repair by the owner of such dam or the persons using the water thereof, and they shall keep the said fish shutes open for the passage of fish during the months of March, April, May and June of each year, and said waste gates open whenever necessary to carry off the overflow and stagnant waters above such dam. Provided, that on all water streams where there is not a surplus of water for all legitimate purposes of the dam, the owner or occupant shall only be required to keep said shutes open when there is waste water and to cause such waste water to pass through such fish shutes sufficient to furnish free passage of fish up such stream.

§ 3. It shall be the duty of the board of county commissioners to procure and cause to be made a draft of a general plan, on a scale of sufficient size for a working plan, for such fish shutes and waste gates of such construction as will in their opinion best subserve the free passage of fish and the carrying off of unnecessary overflow and stagnant waters, on which plans shall be designated the greatest allowable slope per foot run of said shutes, also the proper width and depth of said shutes and waste gates, together with such other details and specifications in respect to materials and construction and connection with the dam as will enable any ordinary carpenter to properly construct and place the same, and to keep a copy of such plans and specifications in the office of the county auditor, and which shall always be open to the general inspection of the public, and the owner or occupants shall make such fish shutes and waste gates in accordance with such plans and specifications.

§ 4. Whenever ten freeholders residing above any dam shall present and file a petition with the auditor of the county, where such dam is located, ten days before any session of the board of county commissioners, setting forth that no sufficinet fish shute or waste gates have been constructed in said dam, or that the same are out of repair, or that fish cannot freely pass through such dam, or that such dam causes the water unnecessarily to overflow or become stagnant above such dam, and such petitioners further show that a copy of such petition, together with a notice that they will bring on for hearing said petition before the board of commissioners at their next session, has been duly served upon the owner or occupant of said dam ten days before the meeting of said board, the commissioners shall then, forthwith, investigate the facts set forth in such petition and inspect such dam, and if they determine that the same does not contain sufficient fish shutes or waste gates or that the same are out of repair, they shall specify how such fish shutes and waste

gates should be constructed, and wherein such dam shall be repaired, stating the location, capacity, depth, width and size, and the manner in which such fish shutes and waste gates should be constructed without in any manner impairing vested rights of the owner of such dam, and shall thereupon give notice to the owner or person in charge of such dam in which such fish shutes or waste gates is to be built or repaired, and cause plans and specifications to be made for such shutes or gates, or repairs thereof, and deliver the same to such owner or person in charge and require the said shutes or gates, or repairs, to be constructed or made within a time to be specified, and a copy of such plans and specifications shall be filed in the office of the county auditor, and such fish shutes or waste gates or the repairs thereof shall be built and completed to the satisfaction of the board of commissioners within the time specified by such board. After the completion of said fish shutes and waste gates the owner or the person in charge thereof shall keep the same in repair, and also shall keep the same open for the passage of fish and for the purpose of carrying off the unnecessary overflow and stagnant waters above such dam. Provided, that anyone feeling aggrieved by any decision of such board may appeal therefrom in the manner provided for appeals from decisions of the board of county commissioners.

§ 5. If any such owner or corporation company or person in charge of any such dam which is now built or which may hereafter be built, shall fail to comply with any of the provisions of this act with respect to the construction or maintenance of, and in keeping the said fish shutes and waste gates open and in good repair, after being notified in writing by the board of county commissioners to do so, shall be guilty of a misdemeanor and shall be punished as such, and every dam maintained in violation of the provisions of this act shall be a public nuisance and may be abated as such.

§ 6. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 8, 1905.

DEEDS

CHAPTER 97

(H. B. 105)

RELATING TO TITLE TO REAL ESTATE

AN ACT Requiring Title to Real Estate Occupied by State Institutions to be Vested in Fee, and Without Reversionary Clause or Condition, in the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That in all cases where money is appropriated by law for the erection of any building for the purpose of this state, the officers of the state shall, before expending any part of said money, obtain a warrant or deed, carrying with it full covenants of warranty granting the title in fee, clear of all incumbrances, and without any reversionary clause or condition of any nature whatsoever, accompanied by an abstract duly certified, with the opinion of the attorney general of the state as to its sufficiency. Provided, however, that the foregoing provisions of this act shall not apply in any case when a deed or deeds or conveyance of lands or property to this state or any officer or board of officers of this state shall have been accepted prior to the passage and approval of this act.

§ 2. That in all cases the legislature shall duly appropriate money to make cash payment as the consideration for said deeds.

Approved March 10, 1905.

DRAINAGE

CHAPTER 98

(H. B. 173)

RELATING TO DRAINAGE

AN ACT Providing for the Establishment, Construction and Maintenance of Drainage and Levees in Counties Whenever Such Drainage Shall be Conducive to the Public Health, Convenience or Welfare.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. The board of county commissioners of any county, at any regular or special session, may establish and cause to be constructed any ditch or drain, may provide for the straightening or enlargement of any water course or drain previously constructed, and may provide for the maintenance of such ditch, drain or water course, whenever such ditch, drain or water course shall be conducive to the public health, convenience or welfare.

§ 2. The board of county commissioners shall act only upon a written petition signed by one or more owners of lands likely to be affected by the proposed drainage. Such petition shall set forth the necessity of the drainage, an accurate description of the proposed route, and of the lands through which the proposed drainage will pass, and a general description of the lands likely to be affected thereby. The petition shall be filed with the county auditor by said board if sufficient in form and if therewith is presented a bond with sufficient sureties to be approved by the county auditor, conditioned to pay all expenses incurred in case the board of county commissioners do not grant said petition or the same is denied on appeal.

§ 3. Upon filing such petition the board of county commissioners shall as soon as practicable inspect the proposed route personally, and if in their opinion it is necessary, shall cause a survey of the proposed drainage to be made by a competent surveyor. Such survey shall be for the purpose of aiding the board of county commissioners primarily in determining the necessity of the proposed drainage, and may be a complete survey such as will be required as a basis for construction of the proposed drainage, or as much less as the county commissioners shall require. Said survey may extend to other lands than those affected by the proposed drainage for the purpose of determining the best practical method of drain-

ing the entire section of country of which the lands proposed to be drained or a portion of them are a part, and thereby in part the practicability of the proposed drainage. For the purpose of inspection or surveys the county commissioners, surveyors, or their employes, may enter upon any lands traversed by the proposed drainage, or in their judgment likely to be affected thereby. After such personal inspection, or after such personal inspection and survey, the county commissioners may, upon notice to such of the petitioners as shall in the petition be designated for the purpose, not exceeding ten days, deny the petition and dismiss the same, if they find the proposed drainage will not be conducive to the public health, convenience or welfare. The petitioners shall be jointly and severally liable to the county for all costs and expenses thus far incurred in such proceedings, to be recovered by action.

§ 4. If after inspection of the proposed drainage, or after notice to the petitioners and hearing, the board of county commissioners decide to retain the petition, they shall cause a complete survey and estimate of the proposed drainage to be made, if the same has not already been made, setting forth the proposed route, a description of the lands through which it will pass, and the names of the owners of each tract so far as the same appear in the office of the register of deeds of the county, a description of all the lands liable to be affected by the proposed drainage, and a complete plat and profile of said drainage, showing the elevations and such other facts deemed necessary or valuable, also an estimate of the cost of construction of the proposed drainage. Such survey and estimate shall be filed with the petition, and thereupon the board shall fix a time and place for hearing said petition, and shall give notice thereof for two weeks by publication two consecutive issues in a legal weekly newspaper published in the county nearest the proposed route of drainage, and by posting copies of said notice in three of the most public places near the route of said drainage, which notice shall describe the proposed [drainage] by an accurate description of the route and of the lands through which the same will pass and the owners of each tract as the same appear in the office of the register of deeds, shall refer to the filing of the petition and the survey and estimate, and shall notify all persons affected by the proposed drainage to appear at said hearing and show cause why the same should not be established and constructed. Said notice shall further notify all persons deeming themselves damaged by the proposed drainage or claiming compensation for the lands proposed to be taken for such drainage, to present their claims therefor at said hearing.

§ 5. At such hearing any person interested may appear and contest the allegations of the petition and the matters set forth in the estimate and survey, and the petitioners in like manner may

be heard in support of the petition. After full hearing such drainage may be established along the route described in the petition. The commissioners may vary from the route described without further notice to any one, so long as the drainage will not affect other lands than those affected by the original route or does not pass through other tracts of lands than those through which the original route passed. If the board of county commissioners deem it necessary to vary from the proposed route so far as to affect other lands or to pass through other lands than those affected by the original route they shall adjourn hearing on said petition and shall give notice thereof as for the original hearing. When the line proposed is along highways already established the drain shall be located at a sufficient distance from the center of such highways to permit a good road along the central line thereof. If the proposed drainage does not give sufficient fall to drain the lands sought to be drained, or will not properly take care of the waters collected by such drainage, the same shall be extended so as to secure the drainage or properly dispose of the water. All the lands proposed to be drained by the petition must be drained by the drainage established. If this cannot be secured the petition must be rejected as a whole, unless the owners of the lands not drained by the drainage found practicable upon consideration of the petition and surveys consent to be left out. When the county commissioners shall have fully heard and considered said petition and all matters in opposition to or in support of the same, they shall, if they find the proposed drainage not conducive to the public health, convenience or welfare, deny said petition, the petitioners to be jointly and severally liable for the costs of the proceedings, the same to be recovered in a civil action. If they find the proposed drainage or variation thereof, accomplishing all the original proposed drainage would have accomplished, conducive to the public health, convenience or welfare, they shall establish the drainage and shall assess the damages sustained by each tract of land or other property through which the route of such drainage will pass, and the damages as compensation for the land taken for the route of such drainage. Any person interested may be heard in the matter of damages or compensation, and the determination of the board of county commissioners shall be final, unless the appeal therefrom as provided herein shall be taken, failure to prosecute such appeal to be conclusively deemed a waiver of any damages or compensation or of any claimant's rights to have the same assessed by a jury. Said drain shall be given a name and shall be recorded and indexed in a book kept for that purpose in the auditor's office.

§ 6. After the establishment of the drainage and the fixing of the damages, if any, the board of county commissioners shall assess the benefits of the proposed drainage to the lands affected, and ap-

point a time and place for equalizing the assessment of the benefits of the proposed drainage to the lands affected thereby, and shall give notice thereof for two weeks by publication in a legal weekly newspaper published in said county for two successive issues, nearest the proposed route of drainage and by posting copies of said notice in three of the most public places near the route of said drainage, which notice shall state the establishment of the proposed drainage, describing same, give a description of each tract affected thereby and the names of the owners thereof, as appears from the records in the office of the register of deeds of said county at the date of the petition, and shall notify them to show cause why the assessment made for said drainage should not be equalized and fixed as made by the board. In making such assessment the board may take any tract or tracts of land affected as a unit, and may equalize all other tracts or property above or below the same in such proportions as they find the same affected. The benefits which any city, town or township may obtain by the construction of such drainage to highways or otherwise, and the benefits which any railroad company may obtain for its property by such construction, shall be assessed and equalized together with the benefits to tracts of lands. Benefits assessable in any case shall be such as accrue directly by the construction of such drainage, or indirectly by virtue of said drainage being an outlet for connecting drains that may thereafter be constructed.

§ 7. When said drainage shall have been established and damages fixed and the proportions of benefits that will accrue to each tract has been fixed and equalized as above provided an assessment may be made upon each tract and property so affected for the purpose of paying any damages for the establishment and construction of the proposed drainage, and for the purpose of paying the costs of establishment thus far incurred. An assessment roll shall be made out, containing a description of the drainage, a description of each tract of land affected thereby, the names of the owners thereof as appear in the office of the register of deeds and the amounts assessed to each tract, and a notification generally to the owners of such tracts to show cause why the assessment as made should not be fixed and equalized at the amounts stated, at a time and place to be fixed by the board. Such assessment roll shall be published in some legal weekly newspaper published in the county nearest the proposed route two successive issues. At such hearing the said assessment shall be equalized and finally fixed and laid by order of said board. A certified copy of such order shall be filed by the county auditor with the county treasurer, and from its filing said assessments shall be due and payable and shall be valid and perpetual liens upon the respective tracts so assessed against all persons or governments except the state and the United States, and

if not paid within ten days shall bear interest from the date of the order of assessment at six per cent per annum, payable annually. Such assessments shall be paid to and received by the county treasurer and paid over to the holders of assessment certificates or upon the order of the county commissioners, and the expenses of the records thereof in the treasurer's office and of collection shall be not to exceed one-half per cent of the total amount collected, and the same shall be a part of the expenses of drainage. Such assessments may be enforced against the lands assessed in all respects as a mortgage lien. The board of county commissioners may issue separate assessment certificates against each tract assessed for the amount of the assessment thereon, and may sell the same at not less than par value, with all accrued interest, or may contract to pay for the construction of such drainage with such assessment certificates. Such assessment certificates shall refer to the record in the office of the county auditor of the final order of assessment and of the filing of a copy thereof in the county treasurer's office, shall transfer to the holder all interest, claim or right in or to such assessments, bear the same rate of interest, carry the lien of such assessments, and be enforceable as a mortgage lien or by any other method provided by law.

§ 8. Whenever sufficient moneys shall have been collected, any damages occasioned by the construction of such drainage and fixed as herein provided shall be paid, and thereupon the board of county commissioners shall proceed to construct said drainage and shall let contracts for the construction of the same. Said contracts may require the contractors to take their pay in assessment certificates to be thereafter issued. The contracts may be for the construction of the entire drainage or for any portion thereof, and shall be let upon competitive bids, the board reserving the rights to reject any and all bids. The lowest responsible and capable bidders shall be accepted, but if any land owner affected be an equally low, capable and responsible bidder with a non-owner of lands affected, the former shall be preferred. When any contract shall be let, the contractor shall give a bond in such sum as shall be approved by the board of county commissioners, conditioned for the faithful performance of his work and the full completion of his contract to the satisfaction of the county commissioners. For the information of contractors in bidding upon the proposed drainage full plans and specifications shall be filed in the office of the county auditor. Contracts for building of bridges or culverts rendered necessary by the construction of such drainage may be let separately and after the drain is completed. The cost of constructing such bridges or culverts shall be charged in the first instance as part of the cost of drainage and thereafter such bridges or culverts shall be maintained as part of the highways.

§ 9. The board of county commissioners shall have power to grant a reasonable extension of time for the completion of any contract. When any contract shall not be finished within the time specified, or to which it may be extended, the county commissioners may, in their discretion, at any time thereafter, re-let such unfinished portion or any part thereof, after not less than five days' notice thereof to the lowest responsible bidder, and shall take security as for the original contract. The cost of completing such parts over and above the contract price and the expense of notices and reletting shall be collected by the county commissioners of the first contractors. Provided, that in no case shall the county commissioners forfeit and annul a contract without five days' notice to the contractor, if found, and, if not found, then by written notice left at his last known place of residence within the county.

§ 10. At any time after the damages arising from the establishment and construction of such drainage are paid as aforesaid and the lands for such drainage have been taken, assessments may be made for further costs and expenses of construction. If the contractors be required and agree to take assessment certificates for their services, assessments need not be made until the completion of the work when an assessment shall be made for the entire balance of costs of construction including the services of the board of county commissioners, surveyor and assistants, plans and profiles, publication and filing and other fees and all expenses of every kind and nature, and such assessment shall be made by the board of county commissioners and equalized, upon notice; and filed, in all respects as before provided for the first assessment. And the said assessment and the certificates issued thereon shall be in like manner perpetual liens upon the tracts assessed, interest bearing, and enforceable as such first assessment and certificates. The board of county commissioners may sell such assessment certificates at not less than par and thereby raise funds to defray the cost of establishment and construction. If there be no damages to be paid before taking the lands for such drainage only one assessment need be made. In any case, in the discretion of the board, several assessments may be made as the work progresses. Assessments shall be paid to the county treasurer and the moneys therefrom shall be paid by him to the holders of assessment certificates, upon the order of the county commissioners, for the purpose of the particular drainage.

§ 11. After the work of construction shall have been fully completed the drainage shall be accepted by the board of county commissioners after careful inspection, by orders duly made, and payment shall in any case be made only upon the completion of the contract, unless in the discretion of the board of county commissioners agreement be made for partial payments.

§ 12. An appeal will lie upon any final order or determination of a board of county commissioners establishing or denying the proposed drainage, fixing damages occasioned by the taking of lands for said drainage, or by said drainage, or fixing the proportion of assessment of benefits, to the circuit court of the county in which said drainage is located, by any one deeming himself aggrieved by any such order or determination. Written notice of such appeal shall be served upon the board of county commissioners and a bond conditioned to pay all the costs of such appeal, in case the contention of appellants be not sustained in some respect, shall be filed in the office of the clerk of the circuit court, to be approved by him, in such amount and with such sureties as he deems necessary. Upon the service of such notice and the filing of such bond as aforesaid the county auditor shall transmit to the clerk of the said court the petition and all other papers in said matter, or certified copies thereof when the convenience of the auditor's office would be seriously impaired by the transmission of said original records, and such matter shall be heard as an original action in said circuit court. Appeals shall in all cases be taken within twenty days from the making of such final order or determination. If, on the trial of such action, it be determined that said drainage as petitioned for and established by order of the board is not conducive to the public health, convenience or welfare, the petitioners shall be jointly and severally liable for all the costs thus far incurred. If the contention of the appellants as to the amount of damages or proportion of benefits or the practicability of the drainage when the route thereof is varied by the county commissioners over the protest and objection of the petitioners, be sustained in whole or in part, the costs of such trial shall be a part of the costs of drainage.

§ 13. For the cleaning and maintainance of any drainage provided herein assessments may be made upon the land owners affected in the proportions determined for such drainage, at any time upon the petition of any person setting forth the necessity thereof, and after due inspection by the board of county commissioners. Such assessments shall be made as other assessments for the construction of said drainage; certificates may be issued thereon and such assessments and certificates shall be liens, interest bearing, perpetual, and enforceable, in all respects as original assessments, and may be sold at not less than par by the county commissioners, turned over to persons contracting for such cleaning and maintainance, or may be collected directly by the board of county commissioners.

§ 14. Payment in Installments] The owner of any tract of land against whom an assessment for drainage is made, may, if he within thirty days after the making of such assessment shall promise and agree in writing filed with the county auditor, in consideration of the right to pay his assessment in installments, that he

will not make any objections to the illegality of irregularity of his assessment if any there be, and will pay the same with interest as fixed by the board of county commissioners, he shall have the privilege of paying said assessments in ten annual installments, interest payable annually. Assessment certificates shall not be issued until after the expiration of the period for filing such agreements with the county auditor, and when issued for assessments to be payable in installments may be issued [in] coupon form. The first installment shall be payable within ten days after a certified copy of the assessment has been filed in the office of the county treasurer, and subsequent installments shall be payable one, two, three, four, five, six, seven, eight and nine years from the date of such assessments, respectively, with interest on the whole sum unpaid, payable annually at maturity of the several installments.

§ 15. Drainage Bonds] The board of county commissioners of any county, whenever they have ordered the establishment of any drainage, are hereby authorized to issue bonds in such sums as may be necessary for the purpose of defraying the expenses incurred or to be incurred in obtaining the right of way or in locating or constructing any such drain. Said word "expenses" shall be construed to mean and cover every item of cost of such drain from its inception to its completion, said bonds to be payable only out of the funds to be derived from special assessments upon the lands benefited as herein provided. Such bonds shall bear interest at a rate not exceeding six per cent per annum, annual interest, payable not exceeding twenty years from issue. Such bonds shall be signed by the chairman of the board of county commissioners and countersigned by the auditor, who shall keep a record of all such bonds. Said bonds shall be issued for the benefit of the particular drainage, numbered, recorded and indexed in the office of the county auditor, and shall in no case be issued for a sum exceeding the benefits to the lands affected by such drainage. The board of county commissioners shall have the power to negotiate such bonds at not less than par value thereof, as they may deem best for the interest of all persons affected by such drainage, any premiums received on said bonds to be credited to the fund of the particular drainage. Such bonds shall contain a recital that the same are issued pursuant to the authority of this act and that they are to be paid out of the funds to be obtained as herein provided. Assessments shall be made upon all of the lands benefited by such drainage, as herein provided, for the payment of principal and interest of such bonds when the same shall become due. Such assessment may be made by separate assessments for installments of interest and principal of said bonds, or in one proceeding with but one set of notices. When the assessments are finally fixed, the same shall be certified to the county treasurer by the county auditor, and the moneys paid in thereon

shall be received by the county treasurer and paid over to the holders of such bonds; the expenses of records thereof in the treasurer's office and of collection to be part of the expenses of such drainage, the total thereof not to exceed one-half per cent upon the total amount collected. Separate funds shall be kept by such treasurer for each drain or drainage, and no funds for one drainage system shall be applied to any other drainage. No county shall be liable for the payment of any bonds issued under this act, but such bonds shall be paid only out of the funds derived by the special assessments herein provided for. Such bonds may be made payable at one time or spread over a period of years, as the county commissioners shall find for the best interest of the parties benefited by the drainage, and may be issued for all or any portion of the expenses of such drainage. Assessments may at any time be received and full discharge thereof given by the county treasurer to any property holder, but after the issue of any bonds such payment of assessments can be applied to the payment thereof only according to the terms of said bonds.

§ 16. Establishment by Mutual Agreement] Owners of lands that require combined drainage may provide for drainage of their own lands by mutual agreement, in writing, duly signed, acknowledged and filed with the county auditor. Such agreement may include the location, the character of the work to be done, the adjustment of the damages, the classification of the lands to be benefited thereby, the amount of special assessments to be laid, when the same shall be laid or so many of these, or any other provisions as shall be agreed upon, and all provisions so agreed shall be as valid and binding as though the same objects were sought and obtained under the provisions hereof. Upon the filing of such agreement the the board of county commissioners shall at their next session establish and locate the drainage agreed upon and the same shall be named, recorded and indexed, and [the] board of county commissioners shall thereafter have complete and full jurisdiction of the parties and the subject matter involved in said drainage and may order such further procedure under the provisions of this act as may be required to carry out the object or purpose of such agreement and to complete and construct the desired improvement, and shall always thereafter retain jurisdiction of said drainage as in this act provided. It shall not be obligatory upon the board of county commissioners upon the filing of any such agreement for drainage to establish said drainage, but the board of county commissioners are hereby required to consider whether such drainage is practicable and will best subserve the interest of the owners of lands in the immediate section of such agreed drainage, and if they find that the same will interfere with the practical drainage of such section and is not for the best interests of all land owners in such

section the board of county commissioners shall not establish the agreed drainage.

§ 17. Relevy] Where proceedings have been had for the establishment of a ditch, drain, levee, or straightening or enlarging of natural water course under the law as heretofore existing, and the improvement has been established and constructed and assessments made upon the land benefited thereby, or upon any portion thereof, for the cost of such improvement, and where the assessment so made cannot for any reason be enforced, the board shall proceed as to all lands benefited by said improvement in the same manner as if the appraisalment and apportionment of benefits had never been made; and they shall proceed in the manner hereinbefore provided, using as a basis the entire cost of such improvement, and in assessment [of] said benefits account shall be taken of the amount of assessments, if any, that have been paid by those benefited and credit therefor shall be given accordingly.

§ 18. Any ditch, drain or water course which is now or may hereafter be constructed so as to prevent the surface and overflow water from the adjacent lands from entering the same is hereby declared a nuisance and may be abated as such; and any person or corporation diverting, obstructing, impeding or filling up any such ditch, drain or water course or breaking down any levee established under the provisions of this act, without legal authority, shall be deemed guilty of a nuisance and criminally punished as such.

§ 19. The powers conferred by this act for establishing and constructing drains shall also extend to and include the deepening and widening of any drains which have heretofore been or may hereafter be constructed; also to straightening, clearing out and deepening the channels of creeks and streams, and constructing, maintaining, remodeling and repairing of levees, dikes and barriers for the purpose of drainage, and the board of county commissioners may relocate or extend the line of any drain if the same is necessary to provide a suitable outlet, and shall cause a survey thereof to be made, but no proceedings affecting the rights of persons or property shall be had under this section except upon the notice and other procedure prescribed herein for the construction of drains.

§ 20. All drains that have been constructed under any law of this state or that may be constructed under the provisions of this act shall, except as otherwise provided, be under the charge of the board of county commissioners and their successors in office, and be by them kept open and in repair. In all cases when any completed drain is or may be situated in more than one county the care of the portion thereof lying within any county is hereby assigned to the board of county commissioners of such county to be kept open and in repair. The cost of such repairs shall in all cases

be assessed, levied and collected in the same manner as is provided herein for the construction of drains originally, and in cases when no assessment of benefits shall have been made, the board of county commissioners having charge of such drain shall make such assessment.

§ 21. The board of county commissioners of any county may make rules and regulations on the subject of drainage within such county, as it may deem proper, not inconsistent with the provisions of this act, and especially with regard to clearing out and keeping clear the channels of streams and the construction and maintenance of dams thereupon, with reference to their capacity for drainage, and may require of the owners of such dams reasonable service in cleaning and keeping such streams clear, as a consideration for the right to erect dams thereupon.

§ 22. Closed or blind drains may be used whenever the same may be found practicable.

§ 23. Drains may be laid along within the limits of or across any public highway, and when so laid out or constructed, or when any road shall hereafter be constructed along or across any drain, it shall be the duty of the county or township to keep the same free and open from all obstructions. A drain may be laid along any railroad when necessary, but not to the injury of such road. When it shall be necessary to cross a railroad it shall be the duty of such railroad company, when notified by the county commissioners, to make the necessary openings through said road and to build and keep in repair suitable culverts or bridges.

§ 24. The board of county commissioners shall have the power, right and authority to establish drainage for or including the whole or any part of any incorporated town or city, including cities acting under special charter, as in this act provided, and they shall have the same power, right and authority with respect to the assessment of damages and benefits within such towns or cities as they have in other cases provided for in this act, and like notices to such city or town with respect to the establishment of such drainage and the apportionment and assessment of damages and benefits shall be given as is required by this act to be given to owners of property damaged or benefited by the establishment or construction of such improvement.

§ 25. The title to the right of way for drainage may be derived by consent or purchase from the owner of the lands through which the same may pass, as well as by the method of condemnation herein provided.

§ 26. When drainage shall be desired running into two or more counties the board of county commissioners of the several counties shall require in each county a petition setting forth the entire drainage and signature of owners of lands in each of the several counties.

The boards of the respective counties shall act conjointly in the consideration of the said petition, a majority being required for any determination. In all other respects the procedure shall be the same as in case of drainage wholly within one county, and the record of such proceedings shall be made in each county, and all publications shall be made separately in each county. If the several boards are unable to agree upon the establishment of the drainage, the matter of damages, the proportion of assessment of benefits, or upon any other matter, any person interested may deem the petition denied and may bring the determination thereof into the circuit court of the county in which his own land lies by giving notice to the boards of county commissioners of his intention and requesting said boards or one of them to transmit its records to the clerk of circuit court of said county. And it shall be the duty of the county auditor upon such notice and request to the county commissioners to transmit the petition and all other records in said proceedings, or certified copies of such records where the auditor's office would be inconvenienced, to the clerk of said circuit court. Said matter shall be tried therein and determined as an original action, and upon such determination the county commissioners of the several counties shall proceed in the matter of such drainage in accordance therewith.

§ 27. The county commissioners shall receive for their services three dollars per day for the time actually spent by them in the performance of the duties of their offices under this chapter. Publishers of newspapers shall receive for publishing legal notices and furnishing evidence of such publication the fees prescribed by law for legal advertisements.

The county commissioners shall have power to administer any oath required in any proceedings had before them or in which they may be called to act officially.

§ 28. If any person shall willfully and maliciously remove any surveyor's stake set along the line of any drain laid out under the provisions of this act, or obstruct or injure any such drain or water course used for the purpose of drainage, or break down or injure any such levee, he shall for each and every such offense be subject to a penalty of one hundred dollars, together with such sum as will be required to repair such damages, to be recovered in an action by the board of county commissioners. The amount of such recovery when collected shall be deposited with the county treasurer to the credit of the construction and maintainance of such drain.

§ 29. Any defects or irregularities not affecting the substantial rights of parties interested occurring in any drainage proceeding heretofore provided for, shall be disregarded in any action seeking to avoid an assessment or cancel, annul or declare void any proceedings under this act. And in case the defect is substantial, the

court shall of its own motion determine the rights of the parties, validate the proceedings and assess the costs as justice may require. if said court shall find cause for such validation or such action should have been taken in the first instance and all parties interested are before the court.

§ 30. There being no adequate law upon the subject of drainage in this state, and the public health of many sections thereof being endangered by accumulations of surface waters, an emergency exists and is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved March 7, 1905.

EDUCATION

CHAPTER 99

(H. B. 63)

RELATING TO TEACHERS' CERTIFICATES

AN ACT Entitled an Act to Amend Sections 2284 and 2285 of the Revised Political Code of 1903, and Sections 2286, 2287, 2288, 2289 and 2290 of the Revised Political Code of 1903, as Amended by Chapter 132 of the Session Laws of 1903, Relating to Certification of Teachers.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Sections 2284, 2285, 2286, 2287, 2288, 2289 and 2290 of the Revised Political Code of 1903 are hereby amended to read as follows:

Section 2284. State Certificates and Life Diplomas] The superintendent of public instruction may issue two professional certificates, the state certificate and the life diploma, hereinafter defined. He shall keep a full record of all state certificates and life diplomas, and carefully file in his office all papers relating thereto, and preserve said papers for the period for which a state certificate or life diploma may be granted. He shall, subsequent to each examination, send to each county superintendent in the state a list of the persons receiving state certificates and life diplomas.

Section 2285. Examinations for Same] Public examinations for state certificates and life diplomas shall be held by the superintendent of public instruction at least twice each year, at such time and place as he shall select, with a view to the accommodation of applicants for such certificates.

Section 2286. State Certificate—How Secured] A state certificate shall authorize the person to whom it is issued to teach in any of the common schools of the state, including those in cities and towns, for the period of five years. Applicants for such state certificate shall, by examination or otherwise, show satisfactory proficiency in orthography, reading, penmanship, arithmetic, geography, English grammar, physiology and hygiene, United States history, including South Dakota history, and shall pass a satisfactory examination in civil government, American literature, drawing, algebra, plane geometry, physical geography, physics or botany, general history, pedagogy, and English language, composition and rhetoric.

Provided, that a diploma from any state normal school of South Dakota having a course of study in which at least one year's work above an approved four year high school course is required, may be accepted in lieu of an examination in the subjects named.

Provided, further, that a diploma from any other school in this state, having a course of study equivalent to the state normal school course herein mentioned, and embracing all of the subjects required in the examination for a state certificate, together with a course of at least eighteen months of pedagogy and professional training, comprising at least one-fourth work for said time, may be accepted in lieu of an examination in the subjects named. Such diploma or a certified copy thereof, accompanied by a certified copy of the course of study pursued, specifically showing the amount of class work and the standing in each branch, must be filed with the superintendent of public instruction.

An applicant for such state certificate by examination must submit evidence of at least twenty-four months' successful experience in teaching. An applicant who presents such diploma shall after graduation teach successfully for at least eighteen months before he shall be entitled to receive such state certificate. Provided, that the superintendent of public instruction shall issue to such applicant a provisional certificate for such probationary period. Every applicant for a state certificate shall submit satisfactory evidence of good moral character.

Section 2287. Renewal of Certificate] The superintendent of public instruction may renew a state certificate upon the presentation by the applicant of his certificate and evidence of continued employment and successful experience in the business of teaching. He may similarly renew a first grade certificate.

Section 2288. Life Diploma—How Secured] A life diploma

shall be valid during good behavior, and shall authorize the holder thereof to teach in any of the public schools of the state. Applicants shall, by examination or otherwise, show satisfactory proficiency in the following branches: Reading, orthography, penmanship, grammar, composition, geography, United States history, including South Dakota history, civics, and physiology and hygiene, and shall pass a satisfactory examination in physical geography, physics, algebra, geometry, general history of the pre-college grade, and in English language and rhetoric, English and American literature, either economics or sociology, any two of botany, zoology, physiology, physics, chemistry, geology and mineralogy, astronomy, algebra and trigonometry, all of the college grade and pedagogy, including principles, method, management, psychology and history of education.

Provided, that a diploma from the state university of South Dakota, or from any approved college having a course of study in which at least four years' work above an approved four year high school course is required, may be accepted in lieu of an examination in the subjects named, if the applicant has in his college course pursued one course of pedagogical studies, comprising at least one-fourth work during at least one school year. In case the holder of such diploma has not taken the required work in pedagogy, the deficiency may be made good by examination.

Provided, further, that a diploma from any state normal school, having a course of study in which at least two years' work above an approved four year high school course is required, or from other normal schools of this state having courses of the same extent and similar character, may be accepted in lieu of an examination in the subjects named.

An applicant for such life diploma by examination must submit evidence of at least forty months' successful experience in teaching. An applicant who presents such diploma shall after graduation teach successfully for at least eighteen months before he shall be entitled to receive such life diploma. Provided, that the superintendent of public instruction shall issue to such applicant a provisional certificate for such probationary period. Every applicant for a life diploma shall submit satisfactory evidence of good moral character. The superintendent of public instruction is authorized to validate certificates of other states issued in accordance with the foregoing requirements.

Section 2289. Certificate Fee] Each applicant for a state certificate, except resident graduates of the schools of this state, shall pay a fee of five dollars, and for a life diploma shall pay a fee of ten dollars; provided, that should an applicant fail in such examination one-half of the fee shall be returned. All fees thus collected shall be paid by the superintendent into the state treasury, and shall

constitute the teachers' reading circle fund, and shall be paid out only on the warrant of the state auditor, issued upon vouchers duly approved by the superintendent of public instruction.

Section 2290. Revocation of Certificates] State certificates and life diplomas shall be revoked by the superintendent of public instruction for any of the causes enumerated in section 2296 of the Revised Political Code of 1903 for the revocation of county certificates.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 11, 1905.

CHAPTER 100

(S. B. 44)

RELATING TO TEACHERS' CERTIFICATES

AN ACT Entitled an Act to Amend Section 2294 of the Revised Political Code, Relating to the Qualifications of Teachers.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 2294 of the Revised Political Code of South Dakota be amended so as to read as follows:

Section 2294. Validity of Certificates—Qualifications of Teachers] A complete first grade certificate certifying to scholastic requirements by the state superintendent and to professional requirements, skill in teaching and moral character by the county superintendent in whose county the examination is held, shall be valid in any county of the state. Applicants for certificates of this grade shall pass an examination in orthography, reading, writing, arithmetic, geography, physical geography, English grammar, physiology and hygiene, history of the United States, civil government, current events, American literature, South Dakota history, drawing and didactics. A complete second grade certificate for both scholastic and professional requirements, signed by the state superintendent and the county superintendent, as indicated above for first grade certificate, shall be valid in the county in which the examination is held, and may be made valid in any county by the endorsement of the county superintendent of said county. Applicants for certificates of this grade shall pass examination in orthography, reading, writing, arithmetic, physiology and hygiene, geography, English grammar, history of the United States, civil government,

South Dakota history and didactics. No teacher shall be entitled to receive a certificate of any grade herein provided for who fails to give proper evidence of possessing a good moral character; and no teacher shall receive a complete first grade or second grade certificate who shall not be at least eighteen (18) years of age. Subsequent to each examination, the state superintendent of public instruction shall send to each county superintendent in the state a list of persons receiving first and second grade certificates. The county superintendent may, when he deems it necessary, issue a third grade certificate, upon his own examination in subjects required for a second grade certificate, for a term of one (1) year, such third grade certificate to designate the district in which said certificate shall be valid, said certificate not to be renewable without examination. No teacher shall be entitled to receive a third grade certificate more than twice in the same county. Recipients of third grade certificates shall not be less than seventeen (17) years of age. The county superintendent shall require a fee of one dollar from every applicant for a certificate; said fee so collected to be deposited at the close of each examination with the county treasurer to the credit of the county institute fund. No person shall be allowed to teach in any of the public schools of this state nor draw wages as a public school teacher who is not the holder of a valid teacher's certificate issued pursuant to the laws of the state of South Dakota.

Provided, South Dakota history and elementary agriculture shall not be required in the foregoing examinations until on and after July 1, 1906.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 10, 1905.

CHAPTER 101

(S. B. 90)

RELATING TO INDEPENDENT SCHOOL DISTRICTS

AN ACT Entitled an Act to Provide for the Government of Independent School Districts Organized by Special Act or Charter That at the Time of Organization Include Within Their Boundaries, an Incorporated City Town or Village That Has Subsequently Re-incorporated and is Now Acting Under the General Law for the Government of Cities, and to Legalize the Acts of Such Independent School Districts and Incorporated Cities, Towns and Villages.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. All independent school districts organized as independent school districts by special act or charter that at the time of organ-

ization included within their boundaries an incorporated city, town or village organized by special act or charter, that has subsequently organized and is now a city under the general law for the government of cities, and such independent school district has continued to act under the special act or charter organizing said independent school district, shall re-organize and be governed by the general law for the government of schools in cities and towns and adjacent territory organized as independent school districts.

§ 2. The boundaries of such independent school districts shall remain the same as under the special act or charter unless changed in accordance with the provisions of law for changing the boundaries of such independent school districts. Provided, this act shall not apply to any independent school district, any part of which is in more than one county.

§ 3. That whenever the city within the boundaries of any such school district is divided into wards, it shall be the duty of the council of said city, on or before the first Monday in April, 1905, to attach to said wards the adjacent territory within said independent school district, and not within the limits of said city, and at the ensuing city election there shall be elected a board of education, as provided for by section 2412 of the Revised Political Code. The board of education so elected shall meet and organize on the first Monday succeeding their election and shall at said meeting determine by lot which of said members shall hold for two years and which for one year. That after said organization said independent school district shall be deemed to be organized under the general law, and the special act or charter organizing said independent school district shall thereafter and thereby be annulled.

Provided, that until such annulment, the acts of the officers of said independent school district are hereby validated and legalized and the re-organization of all cities, towns and villages herein referred to is hereby validated and legalized.

§ 4. Whereas, it is important that this act take effect before the next annual city election, that a board of education for such independent school district may be elected at said time, an emergency is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved March 8, 1905.

CHAPTER 102

(S. B. 225)

RELATING TO THE ORGANIZATION OF SCHOOL DISTRICTS

AN ACT Entitled an Act to Amend Section 2323 of the Political Code of 1903, Relating to the Organization of School Districts.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Section 2323 of the Political Code of 1903 is hereby amended to read as follows:

Section 2323. In any county now, or hereafter organized, the county commissioners shall divide the county, or the settled portion thereof, into school districts. In the formation of such districts and the formation of their boundaries as provided for in this section, boundary lines of congressional townships shall be made the boundary lines of the districts. Provided, that the commissioners may, at their discretion, when for the best interests of the schools, organize one or more congressional townships into one school district. Provided, further, that no district shall be thus formed in which there are not at the time of its formation at least ten children of legal school age.

Approved March 8, 1905.

CHAPTER 103

(S. B. 184)

RELATING TO SCHOOL BONDS

AN ACT Entitled an Act to Amend Section 2424 of the Political Code of 1903, Relating to School Bonds.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 2424 of the Political Code of 1903 be and the same is hereby amended so as to read as follows:

Section 2424. Whenever it shall become necessary, in order to raise sufficient funds for the purpose of a school site or sites to erect a suitable building or buildings thereon, or to fund a bonded indebtedness or any outstanding indebtedness, it shall be lawful for the board of education of every corporation coming under the provisions of this article to borrow money, for which they are hereby authorized and empowered to issue bonds bearing a rate of interest

not exceeding seven per cent per annum, payable annually or semi-annually at such places as may be mentioned upon the face of said bonds, which bonds shall be payable in not more than twenty years from their date, and the board of education is hereby authorized and empowered to sell such bonds at not less than par.

Provided, that no bonds shall be issued until the question shall be submitted to the people, and a majority of the qualified electors who shall vote on the question at an election called for that purpose shall have declared by their votes in favor of issuing such bonds.

Provided, that the provisions of this section shall not apply to cities of the first class, as the same are provided by Article 12 of this chapter.

§ 2. An emergency is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved March 2, 1905.

CHAPTER 104

(S. B. 20)

RELATING TO DUTIES OF SCHOOL DISTRICT OFFICERS

AN ACT Entitled an Act Defining the Duties of School District Officers in Relation to the Planting, Cultivation and Protection of Trees and Shrubs upon the School House Grounds.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. It is hereby made the duty of the officers of every school district in the state of South Dakota to plant trees and shrubs upon the grounds of each school house in their district and to encourage the school children to plant such trees and shrubs and to cultivate and protect the same.

§ 2. Where stock is permitted to run at large it is hereby made the duty of the school officers in every district in South Dakota to cause to be erected about the grounds of every school house in each district a substantial fence sufficient to protect the trees upon the school house ground from destruction by live stock, and such fence shall be provided with convenient gates or stiles.

Approved January 31, 1905.

CHAPTER 105

(S. B. 97)

RELATING TO THE STUDY OF PHYSIOLOGY AND HYGIENE

AN ACT Entitled an Act Relating to the Study of Physiology and Hygiene in the Public Schools.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. In addition to the branches in which instruction is now required by law to be given in all schools supported wholly or in part by public money, instruction shall also be given as to the nature of alcoholic drinks and narcotics, and special instruction as to their effects upon the human system, in connection with the several divisions of the subject of relative physiology and hygiene. And such subject shall be taught as thoroughly as arithmetic and geography are taught in said schools. Such instruction shall be given orally to pupils who are not able to read, and shall be given by the use of text books in the case of pupils who are able to read. And such instruction shall be given as aforesaid to all pupils in all public schools in the state.

§ 2. The text books used for the instruction required to be given by the preceding section shall give about one-fourth of their space to the consideration of the nature and effects of alcoholic drinks and narcotics; and the books used in the highest grade of graded schools shall contain at least twenty pages of matter relating to this subject; but no book in which the required amount of this subject shall appear in whole or in part as a separate chapter at the end of the book shall be considered as complying with the requirements of this statute. Text books on physiology in use in the schools at the time this act takes effect, which are not in accordance with requirements of this section, shall be changed for books satisfying the requirements of this section except when previous contracts as to such text books are now in force.

§ 3. No certificate shall be granted any person to teach in the public schools of the state or in any of the educational institutions receiving money from the state, after the first Monday of July, A. D. Nineteen Hundred Six (1906), who has not passed a satisfactory examination in physiology and hygiene, with special reference to the effect of alcoholic drinks, stimulants and narcotics upon the human system.

§ 4. And be it enacted, that it shall be the duty of county and city superintendents and boards of all educational institutions receiving aid from the state to report to the state superintendent of public instruction any failure or neglect on the part of boards of

school trustees, boards of education and boards of all educational institutions receiving aid from the state to make proper provision, in any and all the schools under their jurisdiction for instruction in the nature of alcoholic drinks and narcotics and their effect upon the human system, in connection with the several divisions of the subject of relative physiology and hygiene, as required by this act; and such failure on the part of trustees, boards of education and boards of educational institutions receiving money from the state, thus reported or otherwise satisfactorily proved, shall be deemed sufficient cause for which the warrant shall be withheld for the state appropriation of school money to which such district or educational institutions would otherwise be entitled.

§ 5. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 6, 1905.

ELECTIONS

CHAPTER 106

(H. B. 168)

RELATING TO ELECTION OF TOWNSHIP OFFICERS

AN ACT Entitled an Act to Amend Section 1007 of the Revised Political Code of 1903, as Amended by Chapter 136 of the Session Laws of 1903, Approved March 10, 1903, Relating to the Election of Township Officers at Annual Town Meetings.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 1007 be amended to read as follows:

Section 1007. There shall be elected at the annual town meeting in each town one supervisor, who shall hold his office for a term of three years, and until his successor is elected and qualified, the senior member of the board of supervisors to be chairman thereof; one clerk, one treasurer, one assessor, two justices of the peace, two constables, and one overseer of highways for each road district in the town. Provided, that justices of the peace and con-

stables shall be elected for two years and at general elections only, except to fill vacancies. Provided, further, that said officers shall be elected by ballot, and the overseer of highways shall be elected by the electors of their respective road districts by a separate ballot.

§ 2. Repeal] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1905.

CHAPTER 107

(H. B. 149)

REGULATING PRIMARIES AND CONVENTIONS

AN ACT to Provide for the Holding and Regulation of Primaries and Conventions.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. All party nominations of candidates for representatives in congress, state, judicial and county officers, presidential electors and delegates to the national, state and county conventions, shall be made in the manner herein provided. All other nominations for such candidates shall be by petition in the manner now provided by law, providing that no nominations made by petition shall be filed previous to making of nominations under this act, and no name of a party or ticket nominated by petition shall contain the name or part of the name of a party ticket nominated under the provisions of this act.

§ 2. All conventions held for the purpose of nominating candidates for representatives in congress and judges of the supreme court, presidential electors, delegates to the national convention and state officers shall be held on the first Tuesday after the first Monday in June next preceding the election at which such candidates are to be voted on.

§ 3. All party conventions held for the purpose of nominating candidates for the office of circuit judge shall be held on the first Tuesday after the second Monday of June next preceding the election at which such candidates are to be voted on.

§ 4. All party conventions held for the purpose of nominating delegates to the state and judicial conventions and conventions for the nominating of senators and representatives in districts comprising more than one county shall be held on the first Tuesday

after the third Monday in May next preceding such state, senatorial, representative and judicial convention.

§ 5. All party county conventions held for the purpose of nominating candidates for county officers and members of the legislature shall be held on the first Tuesday after the third Monday in September next preceding the election at which such candidates are voted on.

§ 6. The state central committee of each political party desiring to place in nomination candidates for representatives in congress, state officers, judges of the supreme court, delegates to the national convention and presidential electors, shall call a state convention for such purpose, to be held at the time herein specified, at such place within the state as they shall deem most convenient for the nomination of such candidates. Such committee shall in their call designate the various offices for which the candidates are to be nominated, and the number of delegates that each county is entitled to, and time and place of holding such convention, and such other information as it shall deem necessary. Such call shall be issued and published at least sixty days before the time of holding such convention.

§ 7. Such committee shall forthwith cause such call to be published in at least five newspapers in the state most likely to give notice to the members of its party, for at least sixty days prior to the holding of said convention, and cause a copy of such call to be mailed to the chairman of each county central committee of such party.

§ 8. Each county shall be entitled to one delegate to the state convention for every fifty votes or major fraction thereof cast by such party in such county for the candidate for governor at the last preceding election.

§ 9. The judicial committee of each judicial circuit desiring to place in nomination a candidate for circuit judge shall, at least sixty days before the time fixed for holding such convention, call a convention to be held at the time herein specified, and at such a place within the circuit as they shall deem most convenient. Such committee shall in their call designate the office for which a candidate is to be nominated, the number of delegates that each county is entitled to, the time and place of holding such convention, and such other information as they shall deem necessary.

§ 10. Such committee shall cause such call to be published for at least sixty days, in at least three newspapers in the circuit most likely to give notice to the members of its party, and to mail a copy thereof to each member of such committee in each county.

§ 11. Each county shall be entitled to one delegate for every fifty votes or major fraction thereof cast for governor by such party in such county at the last preceding election.

§ 12. Where senatorial or representative districts include more than one county, the central committee of such district shall be selected in the same manner as herein provided for judicial committees, and such committees shall perform the same duties within their district as herein provided for judicial committees. Provided, that such committee may fix the day of holding of such convention at such time as it shall deem proper after the selection of delegates to such convention, and perform such other duties as may be necessary to hold such convention. So far as applicable, such committee shall be governed by the provisions of this chapter.

§ 13. The county central committee of each political party of each county desiring to place in nomination county officers or to elect delegates to the state, senatorial, representative or judicial convention, shall, at least twenty days before the time fixed for the holding of such convention, issue a call for such convention, to be held at the time herein specified for such convention, and at such a place within the county as shall be most convenient. Such call shall state the time, purpose and place of holding such convention, and the number of delegates that each precinct is entitled to, and the number of delegates or candidates to be voted for at such county convention, and the time and place at which the primaries are to be held in each precinct. The county central committee shall fix the basis of representation of each precinct, which representation shall be uniform throughout the entire county.

§ 14. The chairman of the county central committee shall cause notice of such convention to be published in newspapers most likely to give notice to the members of his party.

§ 15. It shall be the duty of the chairman of each precinct to post a copy of such call in at least five public places in such precinct most likely to give notice to the electors of such precinct. Such notice shall be so posted at least ten days prior to the time of holding such primaries.

§ 16. All primaries held for the purpose of selecting delegates to the county convention, held for the purpose of selecting delegates to the state or judicial convention, shall be held on the first Tuesday after the second Monday in May next preceding the time fixed for holding the county convention. All primaries held for the purpose of selecting delegates to the county convention, held for the purpose of placing in nomination candidates for county officers, shall be held on the first Tuesday after the second Monday in September next preceding the time fixed for such county convention.

§ 17. A primary shall be held in each voting precinct, and all primaries shall be kept open from three until eight-thirty o'clock p. m.

§ 18. It shall be the duty of the county auditor to furnish the chairman of each precinct of all political parties with two ballot

boxes of sufficient size to contain all the ballots of such precinct likely to be cast by such party; one of such boxes to be marked "Ballot Box" and the other to be marked "Waste Ballot Box," such ballot boxes to be made in the same manner as ballot boxes for elections, and shall be provided with a lock and key. It shall also be the duty of the county auditor to furnish the precinct chairman of each party with one of the booths used at the elections, and designate as far as practicable the order in which such booths shall be arranged in each primary. The precinct chairman of each party shall receive and transmit to the place of voting of his precinct such ballot boxes, booth and ballots, in sufficient time to have the same ready in time for holding such primaries. The county auditor shall also furnish to the precinct chairman of each political party blank ballots, as provided herein.

§ 19. The voting at such primaries shall be conducted in the same manner as the elections under the Australian ballot law, except as hereinafter otherwise provided. Each party shall have their own desk and their own booth, and it shall be so arranged that the voting of each party will be kept separate. The booth of each party shall be marked in large, clear type with the name of the party to which it belongs, and the elector desiring to vote with any party at any primary must receive his ballot from the chairman of such party and vote in the booth belonging to such party.

§ 20. It shall be the duty of the county auditor, at least ten days before the holding of any primary to deliver personally, or mail by registered letter, to the precinct chairman of each political party, one and one-half times as many ballots as there were votes cast by such party in such precinct for the candidate of [for] governor at the last preceding election, or such additional number as may be necessary. Such ballots shall be of uniform size and weight and be made out of flat writing paper, and shall have no printing, writing or other identifying marks on them. The color of ballots of all political parties, to be used at primaries having a state organization, shall be designated by the secretary of state. For parties having less than a state organization, the county auditor of each county in which primaries of such party are held, shall select the color of such ballots. Provided, that the ballots of each political party shall be of a separate and distinct color. And provided, further, that when a color has once been selected for a party having a state organization, such color shall not be again changed. Such color shall be selected upon the application of the chairman of the state central committee of each party, and as soon as selected the secretary of state shall immediately notify the county auditor of each county of such selection.

§ 21. If any person desires to present to the electors of any precinct a list of names to be voted on at such primary, he may pro-

cure from the county auditor sample ballots of the same size, weight and color as the ballot furnished the chairman of the party he intends to vote with. Such person may prepare ballots similar to the sample furnished him by the county auditor, and may write or print the names of any qualified electors of the precinct that he may desire, on such blank ballots, and deliver the same to the precinct chairman of his party. Provided, that such ballots shall contain no writing or printing or other identifying marks, except the names of such persons as are to be voted for. The name of the person or persons in whose interest such ballots are prepared, or the name of the issue which such delegation represent, may be written or printed at the head of the list of names.

§ 22. The precinct chairman of each political party shall place all ballots furnished him on the table, and keep each set or kind of ballot separate. He shall furnish to each elector desiring to vote one blank ballot and one of each kind of the prepared ballots. Before furnishing any ballot to any elector, such elector shall give his name and address to the clerk, and it shall then be the duty of the precinct chairman to stamp such ballots with the word "Official" and add his initials thereto.

§ 23. Each elector, after receiving such ballots, shall take all of such ballots with him to the booth. He may vote for any person he desires, either by writing their names on the blank ballot, by voting any of the prepared ballots, or by erasing any name on any of the prepared ballots and substituting others. Provided, that the names of all of the persons he desires to vote for shall be on one ballot. After having prepared his ballot, the elector shall fold the ballot he desires to vote in such a manner that it will not disclose what ballot he voted, and likewise fold the ballots he does not desire to vote together in such a way that it will not disclose the ballots he does not vote. After having folded his ballots in the manner herein provided, the elector shall hand the ballot to the chairman, who shall deposit the same in the box called the ballot box, and the ballots he does not intend to vote shall be deposited in the box called the waste ballot box.

§ 24. Any elector who supported and voted for a majority of the candidates of any political party at the last preceding election at which he voted, and who is a qualified elector of such precinct, shall be eligible to vote at the primary of such party. Provided, that this section shall not prohibit persons from voting who have not voted before.

§ 25. Any person may challenge the right of any elector to vote at the primary of any party. Whenever any elector's right to vote at any primary of any party is challenged, such elector, before he can vote, shall take and subscribe an oath, as follows:

State of South Dakota, County of....., ss.—.....

being first duly sworn, deposes and says that he resides.....
 in the town of.....in said county; that he is a citizen
 (or has declared his intention of becoming a citizen) of the United
 States; that he has resided in the United States for one year, in
 this state for six months, in this county for thirty days, and for ten
 days in this precinct; that at the last preceding election he sup-
 ported a majority of the candidates of the.....party; that he
 believes in at least a substantial part of the principles of the.....
 party as enumerated in its platform at the last preceding state and
 national convention, and that he in good faith intends to support the
 principles of the party and the candidates nominated by said party
 at the next election. Subscribed
 and sworn to before me this.....day of.....
 A. D.....

Provided, that this oath shall not be required of persons who
 have not voted before.

Every person, knowing himself to be ineligible, who votes or
 offers to vote at any primary election within this state, shall be pun-
 ished by a fine not exceeding two hundred dollars, or by imprison-
 ment in the county jail not exceeding six months.

§ 26. After the primaries are closed, it shall be the duty of the
 precinct chairman of each party first to destroy all the ballots con-
 tained in the waste ballot box, without examining them or permit-
 ting them to be examined. They shall then proceed to count all the
 ballots in the ballot box and keep a true and correct record of such
 counts. After the count is completed, the secretary shall prepare
 the certificate of election of the delegates and members of the com-
 mittee receiving the highest number of votes, which shall be signed
 by the chairman and secretary, and which shall be forthwith trans-
 mitted to the chairman of the county central committee, together
 with all records and ballots voted at such primary. All the ballots
 cast at such primary shall be preserved, and in no way marked, dis-
 figured or mutilated, and shall be sealed up and transmitted to the
 chairman of the county central committee, to be by him held and
 disposed of as hereinafter provided. In case of tie it shall be deter-
 mined by lot by the chairman and secretary of the precinct.

§ 27. The delegates from each county elected to the state con-
 vention shall at the time of holding the state convention select one
 member of the state central committee; such committee, together
 with the candidates nominated by the state convention, shall select
 the chairman and such other officers as may be necessary. Pro-
 vided, that the chairman may select his own secretary.

§ 28. Such committee shall prescribe its own rules of pro-
 cedure, and shall perform such duties as are prescribed herein, and
 such other duties as are usually performed by such committees.

§ 29. The delegates elected from each county to attend the ju-

ditional convention shall, at the time of holding the judicial convention, select from each county a member of the judicial committee of such party. Such committee, together with the person nominated as candidate for judge, shall select a chairman and secretary.

§ 30. Such committee, in addition to the duties prescribed by law, shall exercise such other duties as are now usually performed by such committees.

§ 31. The electors of each precinct shall, at the time of holding the primaries to elect candidates to attend the county convention held for the purpose of placing in nomination candidates for county officers, elect two members of the county central committee from each precinct. The one receiving the highest number of votes shall be designated the chairman, and the one receiving the next highest number of votes shall be designated secretary. In case two or more receive an equal number of votes, the county central committee shall designate which shall be chairman and secretary respectively. The candidates nominated for county officers at large and members of legislature shall select a chairman of the county central committee.

§ 32. In addition to the duties provided herein to be performed by such committee, such committee shall perform such other duties as are now usually performed by such committees.

§ 33. It shall be the duty of the county central committee of each political party, in sufficient time before the first primary is held under this chapter, to appoint a chairman and secretary in each voting precinct, who shall hold their office until their successors are elected and qualified, as provided in this chapter. It shall also be the duty of the chairman of the state, judicial, senatorial and county central committee, respectively, to do all such other acts as may be necessary to carry all of the provisions of this chapter into effect, where this chapter has not otherwise provided. In case of a contest in a county convention, the chairman of the county central committee shall turn over to the committee on credentials the ballots and all other records that he may have pertaining to such contest, and such committee shall be authorized to inspect and pass upon such ballots and records in deciding such contest. Provided, that no delegate or contestant shall be selected on any committee or vote on any question coming before such convention until such contest is determined.

§ 34. It shall be the duty of the precinct chairman of each political party to take charge of the booth and ballot boxes, supply the primary with necessary tables, chairs and other necessary conveniences, and have them in place at the time of the primaries, preside at the primaries, administer the oath to any person who may be challenged, and see that all the provisions of this act with reference to the primaries are duly performed.

§ 35. It shall be the duty of the secretary of each voting precinct to keep a record of the name and residence of each elector voting at such primary, prepare certificates of election, and perform such other duties as are provided by law or usually performed by such officers.

§ 36. It shall be the duty of the chairman of the county central committee to furnish the chairman of each precinct a blank form of certificate of nomination, which shall be uniform for all the precincts. If any vacancy occurs in the office of chairman or secretary of any precinct committee before the primary is called, it shall be the duty of the county central committee to fill such vacancy. If such vacancy occurs after the call, such vacancy shall be filled by the chairman of the county central committee. If any person appointed as chairman or secretary shall neglect or refuse to act as such, his place shall be filled by the electors of the precinct present at the time fixed for opening the primary, and entitled to vote at such primary. The chairman of the county central committee shall be authorized to appoint one or more challengers at each primary, who will be authorized to be present at such primary, challenge such persons as he or they may deem not entitled to vote, and inspect all ballots when they are counted.

§ 37. It shall be unlawful for any precinct chairman or secretary of any political party, or any other person, to in any way interfere with the voting of any other political party at any primary, or in any way obstruct the voting of any party at such primary, or to create any disturbance, or to in any way intimidate any elector from attending at any primary or voting at such primary.

§ 38. It shall be unlawful for any person not a qualified elector of the ward or precinct in which any primary is held, to vote in any manner or on any question which may come before such primary election. Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and shall be punished accordingly.

§ 39. Any person who votes more than once at any primary, or offers to vote more than once, either in the same or in any other precinct, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment in the county jail not exceeding one year.

§ 40. Any person, knowing himself not to be a qualified elector, who votes or offers to vote at any primary, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment in the county jail not exceeding six months.

§ 41. Every person who procures, aids, assists, counsels or advises another to give his vote at any primary, knowing that such person is disqualified, shall be punished by a fine not exceeding one

hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment.

§ 42. Every person who procures or counsels another to enter any town, ward or voting precinct, for the purpose of giving his vote at the primary, knowing that such person is not entitled to vote at such primary, shall be fined in a sum not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days.

§ 43. Every person who at any primary knowingly votes or offers to vote in any primary district in which he does not reside, or in which he is not authorized by law to vote, and any person who knowingly votes at the primary of a party with which he does not affiliate, and of which he is not a qualified voter, shall be fined in a sum not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days.

§ 44. Every person who sells, gives away or disposes of any intoxicating liquors as a beverage on the day of any primary election in or about the place where any such primary is held, shall on conviction thereof be fined in a sum not more than one hundred dollars, or by imprisonment in the county jail not more than thirty days.

§ 45. If any political party shall by a majority vote at any county convention held for the purpose of placing in nomination candidates for county officers, so declare, such party may at the subsequent primaries submit to the electors the nomination of county officers and members of the legislature, under such rules and regulations as the county central committee may prescribe, and not inconsistent with this act.

§ 46. If any county convention shall adopt the primaries as above specified, any persons receiving the majority vote of his party in the county for any county office or member of the legislature, he shall be the nominee of such convention for such office. Provided, that if such person does not receive the majority of the votes of the electors of his party in the county the delegates of the convention shall have a right to make such nominations as they deem advisable.

§ 47. Primaries for the nomination of candidates for all city officers elected at the city election shall be conducted as herein prescribed for the holding of primaries for the election of delegates to county conventions. Representation in city conventions shall be fixed by the city committee. Provided, that the representation shall be uniform throughout the city. City conventions shall be held on the Tuesday next preceding the date of the election, and shall be called to order for the transaction of business at eleven o'clock a. m. The primaries shall be held on the Thursday immediately preceding the date for the conventions, and the polls of said primaries shall be open from four o'clock until eight o'clock p. m. The precinct committeemen of each voting precinct shall conduct such primaries for city

purposes, and a city committee, chairman and secretary shall be selected after the manner prescribed in sections thirty and thirty-five of this act. For such city primaries the city auditor shall perform all the duties required of the county auditor for primaries held for county and state purposes. Returns shall be made to the city committee, and such committee shall perform such duties as are prescribed by this act for county committees. Notice of primaries shall be published for at least three days, and notices for conventions shall be published for at least six days. Until committeemen and committees have been elected as herein prescribed, their duties shall be performed by existing organizations; and the city committee shall make all appointments and fill all vacancies necessary to carry this provision into effect. Other than party nominations may be made by petition, as prescribed by section one of this act.

Approved March 3, 1905.

FALSE STATEMENTS

CHAPTER 108

(H. B. 76)

DEFINING THE CRIME OF MAKING A FALSE STATEMENT

AN ACT Entitled an Act Defining the Crime of Making a False Statement or Statements for the Purpose of Receiving Aid, and Prescribing the Penalty Therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Every person who shall make any false statement or falsely and knowingly misrepresent his or her physical or financial condition, for the purpose of receiving aid from any city or county, or from any person or charitable institution or organization, is guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred (\$100) dollars, or by imprisonment in the county jail for a period not exceeding thirty days, or by both such fine and imprisonment.

§ 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 28, 1905.

FARMERS' INSTITUTES

CHAPTER 109

(S. B. 102)

RELATING TO FARMERS' INSTITUTES

AN ACT Empowering, Authorizing and Directing the Payment of the Expenses of Holding and Maintaining Farmers' Institutes in Counties Where the Same Shall be Held.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That in all counties in the state of South Dakota wherein there is held what is commonly termed a farmers' institute, consisting of a program for education and instructions upon matters relating to agriculture, horticulture and the breeding and raising of stock, which said institute shall be held at least annually, and where there shall be an organization of agriculturists and persons interested in agriculture, horticulture and stock breeding, and shall maintain an organization for holding such educational institute, and have regular officers elected, consisting of a board of five (5) directors, and from this board shall be selected a president, vice president, secretary and treasurer; then, and in such case, the county commissioners of the said county wherein such institute is held and such organization exists, shall pay out of the general fund of said county the necessary expenditures for maintaining such institute and rendering of such program of instructions as hereinafter provided.

§ 2. That whenever the conditions exist as provided in section one, and such institute is maintained and such organization exists, the county commissioners, upon having filed with them vouchers showing the expenditure which shall have been made in and about the holding of said institute, which shall be for the employing of lecturers and necessary expenses connected with holding such institute, which said vouchers shall be subscribed by the president and secretary, and sworn to by either the president or secretary as being true and correct expenditures made therefor, the county commissioners shall then pay said expenditures in and for such county in a sum not exceeding two hundred (\$200) dollars.

§ 3. Whereas, there is no law relating to the payment of expenses of farmers' institutes, an emergency is hereby declared to exist, and this act shall take effect and be in force on and after its passage and approval.

Approved March 3, 1905.

CHAPTER 110

(S. B. 35)

RELATING TO FARMERS' INSTITUTES

AN ACT to Establish and Maintain Farmers' Institutes in the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That there is hereby created a state farmers' institute board, to be composed of the president of the agricultural college and the two members of the state board of regents who are at the time acting on the committee for the agricultural college. The term of office as members of such institute board shall terminate with the expiration of their term of office, as above mentioned.

§ 2. The state farmers' institute board shall have authority to hold institutes, of not to exceed three days, at such time and places within the state as in their judgment the needs of the people demand, which shall be free to the public and shall consist of practical and instructive lectures, addresses, discussions, illustrations and demonstrations on the subject of agriculture in all its branches, and such other matters as are of interest to the farming people of the state.

§ 3. The necessary and actual expenses incurred in the arranging for and conduct of such institutes, including such machinery, models, maps, charts and other apparatus as shall be needed for the proper presentation of the various subjects, shall be paid out of the appropriation hereinafter provided, in the manner provided by law for the payment of other state expenses. Provided, that there shall be no expenditure for hall rent, fuel, lights, local advertising or local speakers, in connection with the holding of such institutes, except when deemed necessary by the institute board.

§ 4. The said board shall have authority to engage such instructors as are needed for the proper presentation of the various subjects at such institutes, each of whom shall be a specialist on the subject he is to present, and to allow them a reasonable compensation for their services, together with their necessary and actual expenses while so employed.

§ 5. The said board shall have authority to do such advertising and publish such matters for free distribution as they may deem advisable for the best interest of the farmers of the state.

§ 6. For the purpose of carrying out the provisions of the above act there is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of five thousand dollars (\$5,000) annually.

Approved March 3, 1905.

FIRE GUARDS

CHAPTER 111

(H. B. 132)

PROVIDING FOR THE CONSTRUCTION OF FIRE GUARDS

AN ACT to Amend Article 24, Chapter 13 of the Revised Political Code of 1903, Entitled Township Government, Relating to the Construction of Fire Guards.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Article 24 of Chapter 13 of the Revised Political Code of 1903, entitled Township Government, be and the same is hereby amended to read as follows:

Section 1131. In all organized civil townships in this state, at the annual town meeting of the electors thereof in March of each year, the electors shall have the power to instruct the township supervisors to plow or to have plowed fire-guards around every township, not less than ten nor more than twenty feet in width, commencing two rods from the center of the roadway and plowing towards center of same, unless interfering shade trees along roadway, in which case they shall commence as much less than two rods as the trees are distant from inside of road line; said plowing shall not be at the cost of more than four dollars per acre for the first plowing and at not more than two dollars per acre for each subsequent plowing; and the said electors may provide fire-guards each way across the center of area so enclosed; and at said meeting they shall vote a tax in addition to the amount necessarily levied for other purposes upon the real property, including railroads embraced in said area, for the purpose of defraying the necessary expenses thereof; said plowing shall be done prior to July first of each year, and shall be inspected and approved by the township supervisors before a warrant for the payment of same is allowed.

Section 1132. For the purpose of plowing fire-guards the supervisors or the parties employed by them for that purpose may, by and with the consent of the owner thereof, enter upon land adjacent to the right of way and construct said fire-guards upon the real estate of private persons.

Section 1133. In counties containing areas not embraced in any civil township, fire-guards as described in section 1131 may be constructed under the supervision of the board of county commissioners of the county, by the road supervisor, and the cost thereof met by

a special levy upon the real and railroad property included within the area embraced within said fire-guards.

Section 1134. Any civil township or county not organized into civil townships may use one-half of the general road fund to help defray the expense of said fire-guards. And the expense of making any fire-guard running upon or adjacent to the township line shall be borne equally by two townships between which said fire-guard is made.

Section 1135. That to prevent the growth of weeds and grass upon the fire-guards the road supervisor shall cause the same to be dragged with a harrow, if the township supervisors or board of county commissioners deem it necessary, between the first day of July and the first day of September, and a reasonable price shall be paid out of the fire-guard fund for such dragging, and as soon as the first day of October, or prior thereto if there is any danger from prairie fires, it shall be the duty of the road supervisor, whether in organized or unorganized townships, to burn the grass along the roadway between the fire-guards when there is plowing along both sides of said roadway. Any civil township or unorganized township road supervisor who willfully fails, neglects or refuses to perform the duties of his office relating to the construction and maintenance of fire-guards, as provided by this chapter as amended, shall be deemed guilty of a misdemeanor.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 28, 1905.

FISH

CHAPTER 112

(S. B. 118)

RELATING TO PRESERVATION OF FISH

AN ACT Entitled an Act to Amend Sections 3100, 3103, as Amended by Chapter 145 of the Session Laws of 1903, and 3108 of the Revised Political Code of South Dakota, Relating to the Preservation of Fish.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Section 3100 of the Revised Political Code is hereby amended so as to read as follows:

It shall be unlawful for any person to kill or take, in any of the permanent waters of this state, for any purpose, any trout, or food fish, at any time, by the use of any poisonous or deleterious or stupefying drug, or by the use of any explosive substance, or by the erection of any wier, dam or other artificial obstruction, or by the use of any net, seine, trap, set line, spear or device whatever, except by hook and line; provided, that it shall be lawful to take or kill with a spear, at any time, any pickerel, carp, suckers or buffalo fish. And it shall be unlawful for any person to empty, or allow to be emptied, place or allow to be placed, any sawdust or manure, or refuse matter of any kind, into the waters of this state containing food fish, or to deposit the same within such distance that it may be carried into such waters by natural causes; or to place, keep or maintain in any of the streams of this state, any net, seine, set line or trap of any kind. Provided, however, that it shall be lawful for any person to take pickerel, suckers, buffalo or carp at any time by seine, wier or trap, provided, that, and before proceeding to take such fish, said party or parties shall first procure a written permission from two of the county commissioners of the county, where said fish are to be taken, attested by the county auditor of said county, which permission shall be in force and effect for a period of five days from date of attesting same. And the said person or persons obtaining the same shall notify the fish warden, or the sheriff, if there be no fish warden of said county, in writing, of the time and place where the privileges of said permit will be exercised. And it shall be the duty of said fish warden or sheriff or deputy to attend at such time and place and superintend the taking of fish under said permit. And he shall receive for his services the sum of three dollars per day, to be paid in advance by the person or persons procuring said permit, before any fish is taken or attempted to be taken under said permit.

§ 2. Section 3103 of the Revised Political Code as amended by Chapter 145 of the Session Laws of 1903, is hereby amended so as to read as follows:

Section 3103. It shall be unlawful to kill, take or have in possession any trout, bass, shad, croppies, or pike, taken or killed in any of the waters of this state during the months of November, December, January, February, March and April, or either of said months, in any year, and that the possession of said trout, bass, shad, croppies, or pike by any person during the above mentioned months shall be prima facie evidence of the violation of the provisions of this section, and the burden shall be upon the defendant to prove that fish in his possession were taken outside of this state. It shall be unlawful to sell or offer for sale at any time, any trout, bass, shad, croppies and pike, taken or killed in any of the waters of this state, or to ship or transport them out of the state. It shall

be unlawful for any express company or other carrier to receive, ship or transport any of the food fish aforesaid taken or killed in any of the public waters of this state. It shall be unlawful to kill or destroy, or have in possession for any purpose whatsoever except for cultivation or dissemination, at any time, any trout, bass, shad, croppies and pike, less than six inches in length.

§ 3. Section 3108 of the Revised Political Code is hereby amended so as to read as follows:

Section 3108. Any person or persons or officers or servants of any corporation convicted of violating any of the provisions of sections 3100, 3101, 3102, or 3103 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of not less than fifty dollars nor more than one hundred dollars for each offense.

§ 4. An emergency is hereby declared to exist, and this act shall be in force from and after its passage.

§ 5. All laws in conflict with this act are hereby repealed.

Approved March 6, 1905.

CHAPTER 113

(H. B. 209)

REGULATING THE TAKING OF FISH

AN ACT Entitled "An Act Regulating the Taking of Fish in Any Lake, River or Waters Forming a Boundary Line Between South Dakota and Any Other State of the United States."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Nets or Seines in Boundary Waters] The taking of any fish with, or the placing, maintaining or using of, a net or seine in any river, lake or waters forming the boundary line between South Dakota and any other state of the United States is hereby prohibited and made unlawful.

§ 2. Jurisdiction of Courts, Wardens, Etc.] For the purpose of enforcing the provisions of this act, the courts of this state sitting in the various counties contiguous to said waters, and the game wardens duly appointed by the governor of this state, are hereby given and shall have jurisdiction over the entire boundary waters of the state, to the furthestmost shore line; and concurrent jurisdiction of the courts and the administrative officers of the states of Minnesota, North Dakota and Iowa over all boundary waters be-

tween such states and South Dakota, and the whole thereof, is hereby recognized.

§ 3. Penalty] Whoever shall offend against any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment for not less than sixty days nor more than ninety days, or both such fine and imprisonment, for each and every offense.

§ 4. Repeal] All acts and parts of acts in conflict with this act are hereby repealed.

§ 5. Emergency] An emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1905.

FOOD AND DAIRY

CHAPTER 114

(H. B. 112)

RELATING TO FOOD AND DAIRY

AN ACT Entitled "An Act to Provide for a State Food and Dairy Department; To Prevent the Adulteration, Misbranding and Imitation of Foods, Beverages, Candies and Condiments, and Regulating the Manufacture and Sale of Dairy Products."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. The Food and Dairy Department of the state of South Dakota is hereby created. Said department shall be in charge of an officer to be known as food and dairy commissioner, who shall be appointed by the governor, by and with the consent of the senate. The term of office of said commissioner shall commence on the first Monday in February of each odd numbered year and shall be for a term of two years, or until his successor shall be appointed and shall qualify. Vacancies occurring in the office for any cause shall be filled by appointment by the governor for the unexpired term. Said

commissioner shall give a bond of \$5,000 running to the state. The salary of said commissioner shall be twelve hundred (\$1,200) dollars per annum.

§ 2. The food and dairy commissioner shall have the power to appoint a department analyst and such inspectors and office assistants as shall be necessary to carry out the provisions of this act, and to fix their compensation.

§ 3. It shall be the duty of the said commissioner to enforce all laws that now exist, or that may hereafter be enacted, in this state, for the purpose of preventing adulteration, misbranding and imitation of foods, beverages, candies and condiments; to enforce the laws regarding the production, manufacture and sale of dairy products, and to perform such other duties as may be provided by law. He shall make annual report to the governor for each fiscal year ending June 30th, showing in detail the work of this department. He shall, also, so far as practicable, either in person or by his agents, encourage, assist and instruct those desiring him to do so, in the organization of creameries or cheese factories, associations and corporations, by lectures, pamphlets or practical demonstration. He shall also license buttermakers and cheesemakers, creameries and cheese factories in the manner hereinafter provided.

§ 4. It shall be the duty of the department analyst to make such chemical analysis and tests as may be required of him by the food and dairy commissioner, and to report the result of such analysis to said commissioner as soon as practicable.

§ 5. The necessary and actual expenses of the commissioner, analyst, inspectors and other employes of the department shall be paid monthly, upon duly itemized and certified bills, in the manner provided by law.

§ 6. The term "food" as used herein shall include all articles used for food, drink, flavoring, confectionery or condiment, by man or domestic animals, whether simple, mixed or compound.

§ 7. For the purposes of this act any article of food shall be deemed to be adulterated in any of the following cases:

1. If any substance or substances has or have been mixed with it so as to reduce or lower or injuriously affect its quality, strength or purity.

2. If any substance or substances has or have been substituted wholly or in part for it.

3. If any valuable ingredient or constituent of the article has been wholly or in part abstracted from it.

4. If it contain any added poisonous or other ingredient which may render such article injurious to the health of the person consuming it.

5. If it consists in whole or in part of a diseased, filthy or decomposed animal or vegetable substance, or any portion of an animal

unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

6. If it be mixed, colored, coated, powdered, polished or stained in a manner whereby its true color or character is concealed.

§ 8. For the purposes of this act an article shall be deemed to be misbranded in any of the following cases:

1. If it be offered for sale under the distinctive name of another article.

2. If it is labeled or branded so as to mislead the purchaser as to the true character of the composition of the article or compound.

3. If the package containing it or the label shall bear any statement, design or device regarding the ingredients, or the substances contained therein, which statement, design or device shall be false or misleading in any particular, or if the same is falsely branded or labeled as to the state, territory or country in which it is manufactured or produced.

§ 9. Any article of food which does not contain any added poisonous or deleterious ingredients, shall not be deemed to be adulterated or misbranded within the meaning of this act, provided, such article be plainly and conspicuously labeled or branded so as to indicate that it is a mixture, compound, combination, imitation or blend, and shows the true character and constituents used therein, provided that this provision shall not be construed to authorize the use of artificial coloring matter or preservatives. And provided further, that any article consisting of such a mixture, compound, combination, imitation or blend shall be plainly labeled or branded upon the outside and face of the package or container from or in which said article shall be sold, with the names and proportions of its constituent parts appearing upon the same label and in as large and prominent characters or type as the trade name of such article.

§ 10. It shall be unlawful for any person, acting for himself or as the servant or agent of any other person, firm or corporation, to manufacture, sell, offer or expose for sale any article of food which is adulterated or misbranded within the meaning of this act.

§ 11. It shall be unlawful for any person to sell, offer or expose for sale any article of prepared foods, unless the true name of the manufacturer and the location of the factory where such article of food is prepared is plainly printed or stenciled on the package, box, can, carton or other container.

§ 12. No person shall manufacture, sell, offer or expose for sale any baking powder that contains any deleterious, injurious or unwholesome substance. There shall be securely affixed to every box, can or package containing baking powder, or any mixture or compound intended for use as a baking powder, a light colored label upon the outside and face of which is distinctly printed in black ink in legible type no smaller than brevier heavy gothic caps the

name and residence of the manufacturer, and the words, "This baking powder is composed of the following ingredients and none other:" and immediately after said words shall be printed in the above style type the true and common name of each and all of the ingredients contained in or constituting a component part of such baking powder, mixture or compound.

§ 13. It shall be unlawful for any person to manufacture, sell, offer or expose for sale as butter any article that is not produced from whole milk or cream or that contains any preservative other than common salt, or that contains less than 82.5 per cent of butterfat. Provided, that nothing in this act shall prohibit the use of harmless additional coloring matter in butter.

§ 14. It shall be unlawful for any person to manufacture, sell, offer or expose for sale any candy which contains terra alba, barytes, talc, paraffine, chrome yellow or other mineral substances or poisonous colors or flavors or other ingredients injurious to health.

§ 15. It shall be unlawful for any person to manufacture, sell, offer or expose for sale any catsup which contains artificial coloring matter, added starch or other substance used as filler.

§ 16. It shall be unlawful for any person to sell or offer for sale cream which contains less than eighteen per cent of butterfat, or to which any preservative has been added.

§ 17. It shall be unlawful for any person to manufacture, sell, offer or expose for sale any cheese which contains less than fifty per cent of butterfat. Provided, that cheese containing less than fifty per cent of butterfat may be sold if plainly and conspicuously labeled or stenciled "Skim Cheese" or "Imitation Cheese."

§ 18. It shall be unlawful for any person to manufacture, sell, offer or expose for sale cider not produced wholly from unfermented juice of the apple.

§ 19. It shall be unlawful for any person to manufacture, sell, offer or expose for sale as extracts, flavorings which are not made from the natural fruit, unless same are labeled "Artificial." Provided, that the word artificial must immediately precede the name of the flavoring and in type the same size and style. Such flavorings shall be free from artificial coloring matter.

§ 20. It shall be unlawful for any person to sell, offer or expose for sale any honey which has not been wholly made by bees from the natural secretions of flowers and plants.

§ 21. It shall be unlawful for any person to manufacture, sell, offer or expose for sale any extract of lemon, essence of lemon, or spirits of lemon, containing less than five per cent of pure oil of lemon dissolved in ethyl alcohol, or to which has been added any artificial coloring matter, other than that derived from lemon peel. Any preparation containing less than five per cent of lemon oil dissolved in ethyl alcohol may be sold if labeled "Imitation Lemon

Extract." Provided, that the word "imitation" is in no smaller type than the name of the article, and said preparation shall contain no added coloring matter.

§ 22. It shall be unlawful for any person to manufacture, sell, offer or expose for sale extract of vanilla, essence of vanilla, or spirits of vanilla, not made wholly from the extractive matter of vanilla beans dissolved in ethyl alcohol, containing not less than forty per cent alcohol by volume and free from all foreign coloring matter. Imitation vanilla flavoring containing any substance or substances other than the extractive matter derived from vanilla beans, must be labeled with the name of each ingredient contained therein, in legible type of equal size and style, and must be free from all foreign coloring matter.

§ 23. It shall be unlawful for any person to manufacture, sell, offer or expose for sale as lard any product not wholly and legitimately and exclusively the rendered fresh fat from slaughtered healthy hogs.

§ 24. It shall be unlawful for any person to manufacture, sell, offer or expose for sale as maple sugar or maple syrup any substance not the legitimate and exclusive product of the sap of the maple tree; nor sorghum that is not produced wholly from sorghum cane; nor cane syrup or molasses not wholly produced from sugar cane.

§ 25. It shall be unlawful for any person to slaughter for the purpose of sale as food, expose for sale, or sell, or bring or cause to be brought into any city, town or village, within the state, for food, any calf or carcass of the same, or part thereof, unless it is in good healthy condition, and was at least four weeks of age at the time of killing.

§ 26. It shall be unlawful for any person to slaughter for the purpose of sale as food, or expose for sale, or sell, or bring or cause to be brought into any town or city, town or village, within the state, for food, any animal or carcass of the same, or part thereof, unless the same was in good healthy condition at the time of killing.

§ 27. It shall be unlawful for any person to sell, offer or expose for sale any pickled, prepared, preserved or canned meats, in the preparation of which any tainted, diseased or unwholesome meat has been used, or to which has been added any injurious or prohibited preservative or any artificial coloring matter.

§ 28. It shall be unlawful for any person to sell, or offer for sale, for consumption, as whole milk, or sell, supply, or bring as whole milk to be manufactured into any article of butter or cheese, to any creamery or cheese factory, any milk diluted with water or containing more than eighty-seven per centum of water fluids, or less than thirteen per centum of milk solids, of which not less than three per centum shall be butterfat, or any impure, unclean, unhealthy,

adulterated or unwholesome milk, or cream from the same, or milk from cows within fifteen days before or five days after parturition, or milk to which any preservative has been added.

§ 29. It shall be unlawful for any person to keep cows in a crowded or unhealthy condition for the production of milk for market or for sale or exchange, or to be manufactured into articles of butter or cheese, or feed cows on food that produces impure, unhealthy, diseased or unwholesome milk, nor sell any such milk to any person or persons, or deliver milk from diseased cows to any creamery or cheese factory. No person shall manufacture from impure, unhealthy, diseased or unwholesome milk, or cream from the same, any article of butter or cheese.

§ 30. It shall be unlawful for any person to manufacture, sell, offer or expose for sale, deliver, or have in his possession, with intent to sell or deliver, any oleomargarine which contains methyl orange, butter yellow, annato, analine dye, or any other coloring matter. The word oleomargarine, as used in this act, shall be construed to mean any substance not pure butter of not less than eighty per cent of butterfats, which substance is made as a substitute for, in imitation of, or to be used as butter.

§ 31. It shall be unlawful for any person, by himself, his servant or agent, or as the servant or agent of any other person or corporation, to manufacture, sell, offer or expose for sale to the residents of this state any spices and condiments, either ground or unground, which are adulterated with any foreign substance or substances within the meaning of this article. The term "spices and condiments," as used herein, shall embrace all substances known and recognized in commerce as spices and used as condiments, whether the same be in their natural state or in the form which would result from the grinding, milling or mixing, or the compounding of the natural product.

§ 32. It shall be unlawful for any person to manufacture, sell, or offer for sale, any vinegar that does not contain at least four and one-half per cent, by weight, of absolute acetic acid, or which contains any preparation of copper, lead, sulphuric acid or other injurious ingredient, or any artificial coloring matter; and in the case of apple or cider vinegar it shall contain not less than two per cent by weight of cider vinegar solids, and be the legitimate product of apple juice. And in the case of malt vinegar it shall contain at least two per cent of natural malt vinegar solids.

§ 33. It shall be unlawful for any person to manufacture, sell, offer or expose for sale any article of food to which has been added formaldehyde, borax, boracic acid, benzoic acid, sulphites or sulphurous acid, salicylic acid, abrastol, beta-naphthol, fluorine compounds, saccharine or coal tar dyes.

§ 34. Any person violating any of the provisions of the pre-

ceding sections of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten nor more than one hundred dollars, or by imprisonment in the county jail not to exceed thirty days, or by both such fine and imprisonment for each offense.

§ 35. Every creamery and cheese factory proprietor or corporation shall, on the first day of April, each year, or within thirty days thereafter, be licensed by the food and dairy commissioner, to manufacture from pure milk or cream, butter or cheese, or both, and shall pay to said commissioner the sum of one dollar for each and every factory owned and operated by said individual or corporation. No license shall be sold or transferred. Each license shall record the name of the owner or corporation, place of business, the location of the factory or skimming station, and the number of the same. Each licensee shall, before engaging in the manufacture of butter or cheese, cause the number of the license to be placed conspicuously on the wall on the inside of said factory or skimming station, and he or they shall report to the said commissioner, on blanks furnished by said commissioner, the names and postoffice address of all the officers of said factory, including the butter or cheese maker. Any change in the management, or buttermaker or cheesemaker, during the term of said license shall be properly reported to the said commissioner.

§ 36. Every manager, secretary, superintendent, or person in charge of any creamery, cheese factory, or renovating or process butter factory in this state, shall make a monthly report to the food and dairy commissioner, not later than the last day of each month, of the product of the factory and such other information as the commissioner may require, for the preceding month, ending on the last day thereof. Blanks upon which to make such reports shall be procured from the said commissioner.

§ 37. Every person who shall, at any cheese factory in this state, manufacture cheese, and shall fail, at the factory where it was made, to distinctly and durably stamp on the bandage of every such cheese and on the box containing the same, in full-faced capital letters, the location of the factory and the grade of the cheese, "South Dakota Full Cream Cheese," "Skim" or "Imitation," as herein defined, shall be deemed guilty of a misdemeanor and punished as herein-after provided. Brands and stencils for stamping shall be procured of the food and dairy commissioner. The food and dairy commissioner is hereby authorized and directed to issue to each cheese factory, upon proper application therefor, uniform stencils or brands to be used as provided in this section.

§ 38. The food and dairy commissioner shall issue at cost stencils and brands provided for in section 37 of this article [act], upon proper application therefor, and shall keep a book in his office, which book

shall contain a record of the number of each brand issued and the names and locations of the factories receiving the same, and no factory other than the one to which such brand or stencil is issued shall use the same.

§ 39. Any person desiring to engage in the occupation of buttermaker or cheesemaker, in any creamery or cheese factory in the state, shall make application to and procure from the food and dairy commissioner a license to engage in such occupation. Such license shall be issued upon satisfactory examination as to the qualifications of the applicant. If the applicant furnishes to the commissioner satisfactory recommendations from the manager or board of directors of the factory in which he may have been employed, of his ability as a buttermaker or cheesemaker, such recommendation may be accepted in lieu of an examination.

§ 40. It shall be a misdemeanor for the owner, manager, agent or any employe of any creamery or cheese factory to manipulate or under-read the Babcock test or any other contrivance used for determining the quality or value of milk.

§ 41. Any adulterated foods, or imitation butter or cheese shipped into this state, not labeled as provided by law in this state, may be seized by the food and dairy commissioner and confiscated by him.

§ 42. Any person violating any of the provisions of sections 35, 36, 37, 39 or 40 of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, and by imprisonment in the county jail for not less than ten nor more than thirty days, or by both such fine and imprisonment.

§ 43. Whoever hinders, or obstructs, or in any way interferes with the food and dairy commissioner, or his employes, deputies or inspectors, in the performance of his or their duty, shall be punished by a fine of fifty dollars (\$50) for the first offense, and one hundred dollars (\$100) for each subsequent offense, and shall stand committed to the county jail until such fine is paid as provided by law.

§ 44. Article eight (8) and Article ten (10), of Chapter twenty-seven (27) of the Revised Political Code, and all other acts and parts of acts in conflict with this act are hereby repealed.

Approved February 24, 1905.

GAMBLING

CHAPTER 115

(H. B. 123)

PROHIBITING GAMBLING

AN ACT Entitled an Act to Prohibit Dealing in Options and Futures, Prohibiting Running or Operating Bucket Shops, and Prescribing Penalties for Violation Thereof.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That it shall be unlawful for any person, co-partnership, corporation, association or society, or the agent, employe or servant of any person, co-partnership, corporation, association or society to keep within the state any store, office or other place for the pretended buying or selling of grain, pork, lard or any mercantile, mining or agricultural products or corporation stocks, or margins, without any intention of future delivery, whether such pretended contracts are to be performed within or without the state; and no person, co-partnership, corporation, association or society, or the agent, employe or servant of any person, co-partnership, corporation, association or society within the state shall make or enter into any contract or pretended contract, such as is above stated and referred to; the intention of this act being to prevent and prohibit within the state the business now engaged in and conducted in places commonly known as bucket shops.

§ 2. Any persons, whether acting individually or as a member of any co-partnership, corporation, association or society, or as the agent, employe or servant of any person, co-partnership, corporation, association or society, guilty of violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment.

§ 3. All acts and parts of acts in conflict with this act are hereby repealed.

§ 4. An emergency is hereby declared to exist, and this act

shall take effect and be in force from and after its passage and approval.

Approved March 10, 1905.

GAME

CHAPTER 116

(S. B. 181)

RELATING TO GAME

AN ACT Entitled an Act to Amend Sections 3077, 3079 and 3083, as Amended by Chapter 149 of the Session Laws of 1903, and Sections 3088 and 3091 of the Political Code of 1903, Relating to the Appointment of Game Wardens, Defining Their Powers and Duties, the Punishment for Hunting, Pursuing and Killing Certain Game, and Providing for Hunter's License.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 3077 of the Political Code of 1903 be amended to read as follows:

Section 3077. On petition therefor, signed by not less than ten citizens of any county of the state where large game exists, the governor may in his discretion appoint a suitable person as game warden for such county, whose jurisdiction shall extend to any county in the state, who shall hold such position until his successor is appointed by law. The appointment of a successor shall operate as a termination of the term of office of any one previously appointed warden. Such game warden shall receive a salary of seventy-five (\$75) dollars per month, which shall be paid from the game fund of the county. But in no case shall such salary be a charge upon or obligation of the county or state.

§ 2. That section 3079 of the Political Code of 1903 be amended to read as follows:

Section 3079. The game warden shall at all times personally supervise the protection and preservation of the large game herein-after mentioned, within the state, and shall make information before a justice of the peace or other proper officer against offending person, persons or corporation, of any violation of the provisions of

this article, of which he has or may receive creditable knowledge. He shall be an executive officer, and is hereby authorized and it is made his duty to arrest, without a warrant, any person or persons found violating any of the provisions of this article, when detected in the act of such violation. When any arrest is made for the violation of any of the provisions of this article, it is the duty of the officer making such arrest to receive and take into his custody any carcass or parts of a carcass of any game in this article mentioned, found in the possession of such person or corporation at the time of such arrest, and at the same time to seize and take into his custody any gun or guns found in the possession of such person or corporation. The game warden shall at all times, when possible, during the months of September, October, November and December, take the field in person in the performance of his duties.

§ 3. That section 3083 of the Political Code of 1903 as amended by Chapter 149, Session Laws of 1903, be amended to read as follows:

Section 3083. Any person or persons who shall pursue, hunt or kill, by any means or device whatever, any buffalo, elk, deer or mountain sheep, at any time except during the month of November of each year, within the boundaries of the state of South Dakota, is guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifty dollars and not more than one hundred dollars, or by imprisonment in the county jail for thirty days.

§ 4. That section 3088 of the Political Code of 1903 be amended to read as follows:

Section 3088. It shall be unlawful for any person in any one year to kill more than one elk, one buffalo, two deer and one mountain sheep. Any person having lawfully killed any of the said animals is entitled to the use and possession of the whole of such animal killed; but the barter or sale of the carcass, or any part thereof, of such animal or animals so killed is hereby prohibited; provided, that the skins, heads and antlers of animals lawfully killed may be sold. The possession of the carcasses, skins, heads or antlers of such animals, in excess of the number as herein provided, shall be considered prima facie evidence of the violation of the provisions of this section, except when in the possession of an operating taxidermist for stuffing or mounting.

§ 5. That section 3091 of the Political Code of 1903 be amended to read as follows:

Section 3091. It shall be unlawful for any person, resident of this state, to pursue, hunt or kill any of the game animals named herein, without first having secured a hunter's license. Such license shall be procured from the county treasurer of the county in which such person desires to pursue, hunt or kill such animals, upon payment of two dollars and fifty cents (\$2.50). Such license shall be

substantially the same as that provided in section 3086, changed to be made applicable to this law and the residence qualifications of the applicant, and confer like privileges. Before such license shall issue, the county treasurer shall be satisfied upon his own knowledge or satisfactory proof that the person making application therefor is a bona fide resident of the state and entitled to such license.

§ 6. That all acts and parts of acts in conflict with this act are hereby repealed.

Approved March 6, 1905.

CHAPTER 117

(H. B. 174)

RELATING TO BEAVER

AN ACT to Amend Subdivision 6 of Section 3054 of the Revised Political Code of 1903, Regulating the Killing of Beaver or Otter.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That subdivision 6 of section 3054 of the Revised Political Code of 1903 be amended so as to read as follows:

Subdivision 6. Shoot, kill, trap or take, any beaver or otter between the first day of May and the first day of Septemeber following; or

§ 2. Acts Repealed] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. Emergency] An emergency is declared to exist, and does exist, and this act shall be in force from and after its passage and approval.

Approved March 6, 1905.

GASOLINE

CHAPTER 118

(H. B. 11)

RELATING TO THE SELLING OF GASOLINE

AN ACT to Secure the Safety in Selling Gasoline.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Every person dealing at retail in gasoline in this state shall, after the first day of July, A. D. 1905, deliver the same to the purchaser only in barrels, casks, packages or cans, painted vermilion red, and having the word "gasoline" plainly stenciled thereon, said purchaser to have no barrels, casks, packages or cans smaller than one gallon.

§ 2. No such dealer shall deliver kerosene in a barrel, cask, package or can stenciled or stamped as above.

§ 3. Every person purchasing gasoline for use shall procure and keep the same only in barrels, casks, packages or cans stenciled or stamped as above.

§ 4. No person keeping for use, or using kerosene, shall put or keep the same in any barrel, cask, package or can stenciled or stamped as above.

§ 5. Any person violating any of the provisions of sections 1, 2, 3 or 4 of this bill shall be punished by fine of not more than fifty dollars, or by imprisonment in the county jail not to exceed thirty days, or by both such fine and imprisonment.

Approved February 11, 1905.

HIGHWAYS

CHAPTER 119

(S. B. 219)

RELATING TO HIGHWAYS

AN ACT Entitled an Act Relating to Roads and Highways on Lands Acquired by Reliction.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That the apportionment, division or survey of lands acquired by reliction, either by the owner or owners of such lands or by virtue of the judgment of any court, pursuant to the provisions of Chapter 173 of the Session Laws of 1903, approved March 11th, 1903, shall not in any manner operate as an abandonment, discontinuance of or vacation of any legal highway along or across any such lands, and all section lines along or across any such lands that were public highways, prior to the enactment of said law, and not subsequently vacated, or discontinued in the manner provided by law, are hereby declared to be public highways.

§ 2. Emergency] Whereas, an emergency exists and is hereby declared to exist, this act shall take effect and be in force on and after its passage and approval.

Approved March 8, 1905.

HORSES

CHAPTER 120

(H. B. 185)

RELATING TO THE INSPECTION OF HORSES

AN ACT to Amend Chapter 153 of the Session Laws of 1903, Relating to the Shipment and Inspection of Horses, Entitled "An Act Providing for the Inspection of Branded Horses About to be Shipped Out of the State of South Dakota; Creating the Sheriffs of the Different Counties Inspectors of Horses, Prescribing Their Duties and Fixing Their Compensation Therefor, and Prohibiting Railroad, Steamboat, Ferry-Boat and Bridge Companies from Receiving Branded Horses for Shipment Out of the State of South Dakota Without First Being Inspected.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That chapter 153 of Session Laws of 1903 be and the same is hereby amended to read as follows, to-wit:

Section 1. Sheriffs are Horse Inspectors] That the sheriffs, or their deputies, of the different counties of the state of South Dakota are hereby created inspectors of horses for their respective counties, whose duties shall be as hereinafter defined, and who shall receive for their services as such inspectors of horses the sum of ten cents each for first twenty-five horses so inspected, and five cents each for all horses over that number inspected for the same person, firm or corporation, and the sheriff shall receive no mileage or further compensation; which compensation shall be paid by the owner or person shipping or driving said horses out of any county of the state of South Dakota.

§ 2. Duty of Inspectors] It shall be the duty of the inspector of horses, whenever he shall have knowledge of the intended shipment of any branded horses from his county, for the purpose of being removed from the county, to immediately repair to the proposed place of shipment or driving in his county and make careful inspection of said horses about to be taken out of said county. He shall require the shipper to exhibit a bill of sale for all horses not of his own recorded brand, such bill of sale to be signed by two witnesses, freeholders of the county in which such horses are offered for shipment. He shall, after having inspected the same, make out a certificate of inspection, which certificate shall be written in ink and

shall be executed in quadruplicate, and shall contain the name of the owner or shipper of said horses, the number and kind, the place from where shipped and the time thereof, the proposed destination of the horses, together with all marks and brands thereon, and shall be signed by the inspector, the original of which he shall retain in his office, a copy of which shall be immediately filed in the office of the station agent at billing station, which copy shall be open for public inspection at all times, a copy of which shall be filed in the office of the county auditor of the county from which the shipment is made immediately upon the inspection of said horses, or as soon thereafter as a copy can be transmitted to office of said county auditor, and a copy of which shall be immediately delivered to the owner or shipper of said horses, and when properly made out and signed, as hereinbefore provided, shall entitle the owner or shipper of said horses to remove the same from any county in the state of South Dakota and shall entitle any transportation, bridge or boat company to receive the same for shipment out of the state of South Dakota.

§ 3. Duty of Horse Owners] It shall be the duty of every owner or shipper of branded horses, intending to ship branded horses out of any county of South Dakota, to notify the inspector of horses of the proposed shipment out of the county before the shipment thereof, in ample time to enable the inspector of horses to properly inspect the same, which notice may be either oral or in writing, but must state the time and place of proposed shipment, and any person or persons, firm or corporation that shall in any manner ship, take or drive any branded horses out of any county without first having the same inspected as in this act provided, or without having a proper certificate of inspection thereof, or who shall make, forge or use any false or fraudulent certificate of inspection, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine of not more than five hundred (500) dollars, or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment, in the discretion of the court.

§ 4. Powers of Sheriff] Each deputy sheriff of the different counties shall have the same powers to exercise the duties of inspectors of horses as they now have as deputy sheriffs, with power to act for their principal.

§ 5. Construction Act] Nothing contained in this act shall be so construed as to interfere with or prevent the riding or driving of horses while in actual use or on their respective ranges. Provided, further, that it shall not interfere with riding or driving of horses while in actual use, out of the state of South Dakota, but this act is intended to apply to all branded horses about to be taken out of any county of the state of South Dakota for sale, barter, exchange, or for the open market.

§ 6. Repeal] That section 4 of Chapter 153 of the Session Laws of 1903 and all acts or parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1905

INTOXICATING LIQUORS

CHAPTER 121

(H. B. 137)

PREVENTING THE ADULTERATION OF INTOXICATING LIQUORS

AN ACT Entitled an Act to Prevent the Adulteration of Vinous, Spirituous, Malt, Brewed, Fermented or Other Intoxicating Liquors, and the Sale of Such Adulterated Liquors, and Prescribing Penalties Therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. It shall be unlawful for any person or persons to adulterate or cause to be adulterated any vinous, spirituous, malt, brewed, fermented or other intoxicating liquors to be offered for sale as a beverage [or] for medicinal purposes by mixing with the same any coloring matter or any drug or foreign ingredient whatever, or by mixing the same with other liquors of different kind or quality, or with water, or to sell or offer for sale for such purposes such liquors so adulterated; to mix with any vinous, spirituous, malt, brewed, fermented or other intoxicating liquors that may be offered for sale by him or his agent, any substance or ingredient not normal, or any unhealthful ingredient whatsoever, or any substance that may be deleterious or detrimental to health, when such liquors are to be used as a beverage or for medicinal purposes; or offer for sale in this state any vinous, spirituous, malt, brewed, fermented or other intoxicating liquors to be used as a beverage or for medicinal purposes that are not chemically pure and free from all unnatural or abnormal ingredients. It is hereby made the duty of the food and dairy commissioner of this state to provide for the analysis of such liquors, under the same regulations as are by law prescribed for

the testing of articles of food, to enforce the provisions of this act, and to prosecute violations thereof.

§ 2. Any person violating any of the provisions of the preceding section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten nor more than one hundred dollars, and by imprisonment in the county jail for not less than ten nor more than thirty days, or by both such fine and imprisonment.

Approved March 7, 1905.

CHAPTER 122

(H. B. 127)

PROHIBITING SALE OF INTOXICATING LIQUORS IN CONSTRUCTION CAMPS

AN ACT Entitled an Act to Regulate the Sale of Liquor Within Five Miles of the Construction Camps on Public Works.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That it shall be unlawful for the board of county commissioners of any county in this state to grant a license to any person to sell, barter or exchange, or otherwise dispose of malt, spirituous or vinous liquors, in less quantities than five gallons, within five miles of any camp or assembly of men engaged in the construction or repair of any railroad, canal, reservoir, public work or other kindred enterprise where twenty-five or more men are employed.

§ 2. Any person who shall sell, barter or exchange or offer for sale barter or exchange, or otherwise dispose of malt, spirituous or vinous liquors, in less quantities than five gallons, within five miles of any camp or assembly of twenty-five or more men engaged in the construction or repair of any railroad, canal, reservoir, public work or other kindred enterprise, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not exceeding one hundred dollars, or imprisoned in the county jail not exceeding sixty days, or both such fine and imprisonment in the discretion of the court, and any attempt to evade the provisions of this act by giving away any such liquor to any person on the pretense or for the reason that such person has purchased, or designs to, or is expected to purchase some other article, shall be deemed a sale within the provisions of this act. Provided, that the provisions of this act

shall not apply to sales made under a license issued by any incorporated town or city, nor to sales at saloons or other places at which such liquors are sold or disposed of, outside the corporation limits of cities or towns, which may have been established and licensed six months prior to the beginning of such work within the five mile limit.

§ 3. Justices of the peace in their respective precincts shall have jurisdiction to hear and determine all cases arising under the provisions of this act.

§ 4. An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1905.

CHAPTER 123

(H. B. 200)

REGULATING THE FURNISHING OF PRESCRIPTIONS

AN ACT Limiting and Regulating the Furnishing of Prescriptions by Physicians for the Sale or Disposition of Intoxicating Liquors.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That it shall be unlawful for any physician to write, furnish, sell or give to any person any prescription for any kind of intoxicating liquors to be used as a beverage or for any purpose except medicinal purposes in case of actual sickness.

§ 2. It shall be unlawful for any physician to furnish any person a prescription for any kind of intoxicating liquors, except to patients of such physician in case where such patient is afflicted with some disease and his condition is such that, in the opinion of said physician, the taking by said patient of the intoxicating liquors prescribed would be beneficial to said patient.

§ 3. Any person violating any provision of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than ten nor more than thirty days, or by both such fine and imprisonment.

Approved March 7, 1905.

CHAPTER 124

(S. B. 159)

RELATING TO INTOXICATING LIQUORS

AN ACT Entitled an Act to Amend Section 2837, Political Code, Revised Laws 1903, Relating to Intoxicating Liquors.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Section 2837 as Amended] On receiving the license provided for in this article, the county treasurer, shall give a receipt for the money so paid, to the person or persons of whom the same shall be received, in which receipt the name of the person or persons paying the license shall be stated and shall specify therein the amount of the license and the time for which it was paid, the city, ward, town, township or precinct in which the business is to be conducted, and the kind of business for and on account of which the license is paid, and he shall also deliver to such person or persons a notice printed on full sized printer's card board, and in as large letters as practicable, which notice shall contain a statement of what license has been paid by the holder of said notice and the penalty for selling in violation of the provisions of this article, and that complaint may be made to any justice of the peace or police justice. Before commencing or doing any business for the time for which said license is paid and the receipt is given, said notice and receipt shall be posted up and at all times displayed in a conspicuous place in the room where the sale of the liquors or beverages in this article, and for which the license was paid, is carried on, so that such receipt and notice shall be displayed in a conspicuous manner to persons visiting or frequenting such room or place. And it shall be the duty of the county auditor to prepare printed blank receipts and notices conforming to the provisions of this article, and to furnish the same in proper quantities to the county treasurer of his county, and no county treasurer shall issue any such receipt or notice until the license specified therein shall be paid in full in money. Provided, that no license shall be granted to any person under any of the provisions of this article who has ever served any term of imprisonment in any penitentiary, or who shall be, after the taking of effect of this article, convicted of keeping a disorderly house, by any court in this state; and, provided further, that no license shall be granted to any person or persons to sell intoxicating liquors, under the provisions of this act, in any township, town or city of this state where a majority of the electors of such township, town or city have not voted in favor of granting of such license at the last general municipal election, and it shall be unlawful for any county

treasurer to receive such license money or receipt for the same from any person or persons for a license to sell intoxicating liquors in any township, town or city where the majority of the electors have not voted in favor of the issuance of such license at the last general municipal election.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 8, 1905.

INSURANCE

CHAPTER 125

(S. B. 86)

RELATING TO MUTUAL LIFE INSURANCE

AN ACT Entitled an Act for the Organization and Regulation of Mutual Life Insurance Companies on Fixed Level Premium Plan.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Every corporation organized under the laws of this state upon the mutual fixed level premium plan for the purpose of writing or underwriting contracts of insurance upon the lives or health of individuals, and every insurance appertaining thereto, or connected therewith, and contracts of annuity, endowment contracts, limited payment policies or contracts, children's endowment policies, industrial insurance and any and all other contracts usually and customarily written by "standard" or "old line" life insurance companies in the United States of America, shall before commencing business comply with the provisions of this act.

§ 2. Such corporations may be formed under this act by the voluntary association of seven (7) or more persons upon complying with the provisions of this act.

§ 3. Articles of incorporation must be prepared setting forth: 1, name of the corporation; 2, purpose for which it is formed; 3, place where its principal business is to be transacted; 4, term for which it is to exist; 5, the least number of its directors or trustees

(which in no event shall be less than seven); and the names and residences of the directors or trustees who are to serve until the election and qualification of their successors.

§ 4. The articles of incorporation must be subscribed by five or more of the persons so associated together, all of whom must be residents of this state, and acknowledged by each subscriber before some notary public or other officer authorized to take acknowledgments.

§ 5. There shall be attached to the articles of incorporation an anti-trust certificate as provided by section 781 of Chapter 58 of the Penal Code of Revised Code of 1903 of this state.

§ 6. Before the incorporators of any such corporation shall present articles of incorporation to the secretary of state for certificate of incorporation, such articles of incorporation shall be referred to the attorney general of this state, and if the attorney general shall find the same regular and in accordance with this act he shall issue a certificate to that effect and attach the same to the articles of incorporation.

§ 7. When articles of incorporation of any such corporation is presented to the secretary of this state, with the attorney general's certificate attached thereto as provided for in the preceding section, the secretary of state shall issue to such corporation a certificate, over the great seal of the state, showing that articles of incorporation of such corporation have been filed in his office and that they contain the required statement of facts and are regular, and that the persons signing said articles and their associates and successors and members of said corporation shall be a body politic and corporate by the name and for the purposes stated in said articles; and after such certificate has been issued, such body or association shall be a body corporate and a corporation, and be deemed regularly incorporated, and shall be deemed to be engaged in the business of life insurance upon the mutual and fixed level premium plan and shall be subject only to the provisions of this act.

§ 8. The secretary of state shall record the articles of incorporation in a book kept in his office for that purpose, called the "book of corporations." A copy of such articles of incorporation so filed and certified by the secretary of state must be received in all courts and other places as prima facie evidence of the facts therein stated and of the existence of such corporation.

§ 9. Any corporation organized under this act shall, before commencing business, file with the commissioner of insurance of this state a certified copy of the articles of incorporation made by the secretary of state, and the commissioner of insurance shall issue to such corporation his certificate certifying that such corporation is authorized to transact business and write contracts as soon as it has procured the two hundred and fifty (250) applications and given

public notice of its intention to do business, all as provided for by this act. The fee of the commissioner of insurance for examination of articles, recording, and issuing certificate, as provided in this section, shall be the sum of five dollars (\$5).

§ 10. Any corporation organized under this act shall, before commencing business, publish a notice of such intention to commence business, once in each week for at least four weeks in a weekly newspaper published in the county in which the corporation is to have its principal place of business.

§ 11. No such corporation shall issue any policy of insurance until at least two hundred and fifty (250) persons under the proposed plan of organization shall have subscribed in writing to be insured therein in the sum of at least one thousand (1,000) dollars each; nor until the bonds of such officers as shall be provided for by its by-laws shall have been duly executed and approved.

§ 12. Every corporation organized under this act must within sixty (60) days after filing articles of incorporation adopt a code of by-laws. Such corporation may adopt such code of by-laws at any meeting of its members by a two-thirds vote of those present or represented by proxy. The written consent of two-thirds of the members shall be effectual to adopt such code of by-laws without a meeting.

§ 13. All meetings of members of such corporations must be called by two weeks' notice of same by advertisement in some newspaper published in the county in which the principal place of business of such corporation is located.

§ 14. The directors or trustees of such corporation, after their election, shall elect a president, vice president and secretary from their number; and may elect such other officers, agents and committees as may be deemed necessary for the conduct and management of the affairs of such company; may elect from their number an executive committee of not less than three (3), which committee shall have such powers in the conduct and management of the affairs and business of the corporation as is prescribed by the by-laws; the duties and powers of the principal officers and the executive committee shall be as prescribed by the by-laws.

§ 15. The number of directors or trustees of such corporation may be increased above the number in this act provided, in manner and to any number provided for in the by-laws of the corporation.

§ 16. Such corporation may, by its by-laws, provide the number of members necessary to constitute a quorum at any meeting of the corporation, make and provide any provisions of articles not inconsistent with law, deemed proper for the interests of such corporation or for the accomplishment of the purposes thereof and the management of the business. Such corporation may amend, repeal,

or adopt new by-laws at any meeting of its members by a two-thirds vote of those present, or represented by proxy.

§ 17. Any corporation organized under this act may at any annual meeting, or special meeting called for such purpose, amend its articles of incorporation by a two-thirds vote of those present in person or by proxy, or make any provisions which might have been originally provided for in the certificate or articles of incorporation. A certified copy of such amended articles of incorporation shall be filed and recorded in the office of the secretary of state, and a certified copy of the same filed in the office of the commissioner of insurance, and shall take effect from date of such filing.

§ 18. In no case shall any member of such corporation be individually or personally liable for debts or obligations of the corporation. No person shall incur any personal liability for the losses or debts or liabilities or obligations of any such corporation by reason of being a member thereof or by reason of being a policy holder in such corporation.

§ 19. The business year of each such corporation shall close on the 31st day of December each year, and such corporation shall within sixty (60) days thereafter prepare under oath of two of its officers and file in the office of the commissioner of insurance a detailed statement, made upon blanks furnished by the insurance department of the state, giving the information in detail required by such insurance department so as to show its true financial condition, and shall pay upon filing each such annual statement and for the certificate of authority from the commissioner of insurance for doing business another year (as provided for by section twenty of this act), the sum of ten dollars (\$10), and the commissioner of insurance shall publish such statement in his annual report and also in one legal newspaper in each judicial circuit in this state.

§ 20. On compliance with the preceding section by such corporation, the commissioner of insurance shall issue to such corporation a certificate setting forth: Corporate name of corporation; its principal place of business; amount of securities deposited with the state treasurer; that it has fully complied with the provisions of law and paid its license fee and is authorized to transact business for a period of one year from March 1st of the year of its issue.

§ 21. Every corporation organized under this act shall at the time of making its annual statement pay into the state treasury as taxes one per cent of the amount of premiums received in this state during the preceding year, taking duplicate receipts therefor, one of which shall be filed with the commissioner of insurance, and upon filing such receipt, and not until then, the commissioner of insurance shall issue an annual certificate permitting said company to do business in this state for and during the succeeding year. The payment of such tax shall be in lieu of all other taxes, state and

local, except taxes on such real estate as may be owned by such corporation.

§ 22. The board of directors or trustees, or the executive committee, must provide for a reserve fund and may provide such other funds as deemed advisable for the several classes of contracts written; and may apportion surplus at times, in amounts and in manner deemed by them advisable, or as provided by the by-laws; may apportion as a dividend in reduction of premiums, in purchase of paid up or extended insurance, or pay in cash or pay to beneficiary of deceased in addition to face of policy; shall fix the compensation or salary of officers, committees, agents and other persons necessarily employed in the transaction of business.

§ 23. No person shall act within this state as agent in receiving or procuring applications for insurance for any corporation organized under this act, except for the purpose of taking applications for organization, unless the corporation for which he is acting has received a certificate from the commissioner of insurance as provided for in this act, authorizing such corporation to transact business in this state; nor as general agent or traveling solicitor until he shall have received from said commissioner of insurance a certificate that said general agent or traveling solicitor is authorized to act as such. The commissioner of insurance shall receive for each such agent's certificate fifty (50) cents.

§ 24. No corporation organized under this act shall issue any policy to any person under the age of eighteen (18) years or over the age of sixty (60) years, excepting that it may write so-called "children's endowment insurance," or unless the beneficiary under such policy shall be husband, wife, relative, legal representative, heir or legatee of such insured member. Any policy made in violation of this section shall be void. Any policy holder shall have the right at any time, with the consent of the corporation and by complying with the by-laws, to make a change in the beneficiary without the consent of such beneficiary.

§ 25. Every such corporation organized under this act shall invest its reserve fund in the bonds of the United States or of this state, or of any county, city, town or village or duly organized school district in either of the states of South Dakota, North Dakota or Minnesota, or in first mortgages upon real estate not exceeding thirty-five per cent of the value of such real estate, which real estate shall be situated in any state in which said insurance company shall be doing business, and it may also make loans on the security of promissory notes, amply secured by pledge of any of the foregoing in which such insurance corporations are hereby authorized to invest their funds, and every such corporation may not only loan to its policy holders, sums not exceeding one-half the annual premiums on their policies upon notes to be secured by the policies

of the persons to whom the loans may be made, but may also make loans upon the security of its own policies to an amount not exceeding ninety-five per cent of the cash surrender value of each such policy at the time of making any loan.

§ 26. Any such corporation may buy, acquire and hold real estate for its convenient accommodation in the transaction of its business, and may erect buildings for such purpose, and a portion of such buildings may include rooms for rental; or any real estate acquired by foreclosure or received in satisfaction of loans or debts, or acquired upon judgment, or decree, rendered in favor of such corporation, and may sell and convey same.

§ 27. Such corporations shall deposit with the state treasurer, to be held in trust for the benefit and protection of and as security for the policy holders of such corporation, their legal representatives and beneficiaries, in such securities as provided for by section twenty-five of this act, or in cash, either one or both, at least the sum required to cover all the reserve fund as provided by this act; and it is hereby made the duty of the state treasurer to receive and receipt for the same; and every such corporation depositing such securities may receive the income thereof, and exchange the said securities from time to time, and the state treasurer shall stamp or endorse each of said securities with the name of the corporation and the date deposited, and when withdrawn shall endorse the same with the word "released" and the date of such release, and it shall be the official duty of the state treasurer to receive, receipt for, endorse, exchange, and safely keep said securities or cash.

§ 28. Every such corporation shall, after the first policy year, accumulate and maintain upon all the outstanding policies a reserve in amount not less than the aggregate net value of all such policies, said value to be computed by the American experience table of mortality, with interest not exceeding four and one-half per cent per annum.

§ 29. Any corporation authorized to do business hereunder may provide for surrender values in cash, paid up or extended insurance, provided the amount of reserve computed to be set apart for such values is plainly stated in the policy; and, provided further, that such values shall not be in excess of the portion of the premium, with interest accretions thereto, collected for such purpose.

§ 30. Any corporation, company, association or society organized under the laws of any other state or territory of the United States or the District of Columbia, or foreign country, desiring to do business of mutual life insurance on the fixed level premium plan under the provisions of this act, shall first procure from the commissioner of insurance a certificate of authority to so do business in this state, a duplicate of which shall be filed in his office. The commissioner shall annually issue to such foreign corporation, com-

pany, association or society renewal certificates of authority to continue business, if it shall have fully complied with the provisions of this act and pay taxes in accordance with the existing laws of this state; and if the commissioner shall be of the opinion that any such corporation, company, association or society is not entitled to a renewal of a certificate of authority he shall cite the same to appear, giving reasons therefor, and show cause why the certificate of authority should not be renewed; and unless the certificate of authority shall be renewed within thirty days after such hearing, such foreign corporation, company, association or society shall cease to do business in this state; provided, the decision of the commissioner of insurance shall be subject to a review by any court of competent jurisdiction. When any state, territory or foreign country shall impose any obligations upon any such corporation of this state, or their agents transacting business in such other state, territory or foreign country, the like obligations are hereby imposed upon similar corporations of such other state, territory or foreign country and their agents or representatives transacting business in this state, and such corporation, company, association or society of such other state, territory or foreign country, and its agents and representatives, shall pay all licenses, fees or penalties and make deposits with the commissioner of insurance imposed by the laws of such other state, territory or foreign country upon any corporation of this state doing business therein; and in case of failure to pay the same the commissioner shall refuse the certificate of authority herein provided for or cancel such certificate if one shall have been previously issued. Any such foreign corporation, company, association or society doing business under the provisions of this act within this state, shall furnish evidence satisfactory to the commissioner of insurance that it has a reserve fund equal in amount to that required by this act, and that the same is held for the benefit of policy holders only, and invested as required by the insurance laws of its home state. Nothing in this act shall be construed as obligatory on any such foreign corporation or company to qualify and do business under this act in preference to qualifying and doing business under any other law of this state that may be in operation.

§ 31. No corporation organized under this act shall consolidate with another company, corporation or association, or transfer or re-insure its risks with any other company or association, or assume or reinstate the whole or any part of the risks of any other company or association, except with the approval of a majority of the directors or members of any such company or association. Provided, however, that any corporation organized under this act may re-insure a fractional part of any single risk, but no such insurance shall in any manner release the corporation from its obligation under its contract with the policy holder. All such re-insurance shall be reported annually to the commissioner of insurance.

§ 32. The money or other benefit to be paid, provided or rendered under its contracts of insurance by any corporation or association authorized to do business under this act, not exceeding five thousand (5,000) dollars, shall not be liable to attachment or other process and shall not be seized, taken, appropriated, or applied by any legal or equitable process, nor operation of law, to pay any debt or liability of a policy or certificate holder or of any beneficiary named in a policy or certificate.

§ 33. This act shall not relate or apply to fraternal beneficiary societies, orders or associations doing business in this state on the lodge system, unless any such society, order or association shall qualify hereunder.

§ 34. Whenever the laws of any other state of the United States shall require of life insurance companies organized under this act and doing business in such other state any deposit of securities for the protection of their policy holders or otherwise, or any payment of taxes, fines, penalties, certificates of authority, license fees or otherwise, greater than the amount required by the laws of this state for the same purposes from similar companies organized under the law of such other state doing business within this state, then all such companies of such other states doing business within this state under this act shall make the same deposit with the state treasurer and shall pay him the same sum for taxes, fines, penalties, certificates of authority, license fee or otherwise as a condition to the issuing of a license to them as is required to be paid by the laws of such other states.

§ 35. Any agent, physician or other person who shall knowingly and by means of concealment or false or fraudulent statements assist in securing any insurance on the life of any person, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand (1,000) dollars or undergo an imprisonment of not more than one year in the county jail, or both, in the discretion of the court.

§ 36. The commissioner of insurance shall at his discretion, or at the request of any organization doing business under these provisions, make an examination thereof and furnish a certificate of the result, showing all its assets, how invested, and such other particulars as may be deemed necessary to show the character and condition of the organization, and the necessary expense of the said examination shall be paid by it.

§ 37. Every life insurance corporation or association not organized under the laws of this state shall, before doing business under this act, deposit with the commissioner of insurance a copy of its charter and a statement signed and verified by the affidavit of the president or vice president and of the secretary, in form as required by the commissioner of insurance; and also a written in-

strument duly signed by the president and secretary thereof, with the corporate seal affixed, and therein appoint an attorney to reside in this state, specifying his place of residence, upon whom and where any summons, notice or process of any court of this state may be served, and stipulate that service of any such summons, notice or process upon any such attorney in any action brought upon any cause of action arising out of any business or transaction in this state shall be accepted irrevocably as a valid service upon such corporation; unless another attorney shall be subsequently appointed with like authority in his stead, such authority shall be continued unrevoked while any liability remains outstanding against the corporation in this state, and such an appointment shall not be revoked until another be made and a like letter of attorney deposited. Every such service shall be as effectual for all purposes as if duly made on a corporation organized under the laws of this state.

§ 38. All companies organized under this act, and all life insurance companies transacting business in this state under the provisions of this act, shall be subject to supervision and regulation by law for the supervision and regulation of life insurance companies organized in or doing business in this state.

§ 39. It shall be the duty of the commissioner of insurance, at any time, when it appears from the reports to his department, made by any corporation organized under the provisions of this act, or when it appears from his examination that any such corporation is conducting its business in violation of law, to withhold or revoke his certificate of authority to such corporation, its officers and agents to transact further business.

§ 40. All acts and parts of acts in conflict with the provisions of this act shall not apply to corporations and associations organized under this act.

Approved March 9, 1905.

CHAPTER 126

(S. B. 206)

PROVIDING STANDARD FORM OF FIRE INSURANCE POLICY

AN ACT Entitled an Act Prescribing a Standard Form of Fire Insurance Policy, and Providing Penalties and Regulations Pertaining Thereto.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Matters Which May be Added to Standard Form] No fire insurance company shall issue any fire insurance policies on

property in this state other than those of the standard form, except as follows, to-wit:

First—A company may print on or in its policies its name, location and date of incorporation, the amount of its paid up capital stock, the names of its officers and agents, the number and date of the policy, and if it be issued through an agent, the words, "This policy shall not be valid until countersigned by the duly authorized agent of the company at....."

Second—A company may print or use in its policies printed forms of description and specification of the property insured, including permits for the use of electricity, gasoline or storage of other extra hazardous product or material, also for repairs and improvements, for the operation or ceasing to operate and for the maintenance of sprinkling or other improvements in case of factories or similar risks, also may grant permission for premises to remain vacant.

Third—A company insuring against damage by lightning may print in the clause enumerating the perils insured against, the additional words: "Also any damage by lightning, whether fire ensues or not," and in the clause providing for apportionment of loss in case of other insurance, the words, "whether by fire, lightning or both."

Fourth—A company incorporated or formed in this state may print in its policy any provisions which it is authorized or required by the laws of this state to insert therein.

Fifth—The blanks in said standard form may be filled in print or in writing.

Sixth—Printed or written forms of description and specification or schedules of the property covered by any particular policy and any other matters necessary to clearly express all the facts and conditions of insurance of any particular risk (which fact or conditions shall in no case be inconsistent with, or a waiver of, any of the provisions or conditions of the standard policy herein provided for), may be written or attached or appended to any policy issued on property in the state.

Seventh—Where two or more companies (each having previously complied with the laws of this state) unite to issue a joint policy, there may be expressed in the heading of such policy the fact of the severalty of the contract, also the proportion of the premium to be paid each company, the proportion of liability each company agrees to assume, and in the printed conditions of such policy the necessary change may be made from the singular to the plural number when reference is had to companies issuing such policy.

Eighth—A clause may be inserted in or attached to the policy

making the loss, if any, payable to a mortgagee or trustee as his interest may appear.

§ 2. Standard Form of Policy] The said standard form of fire insurance policy hereby adopted and prescribed for the state of South Dakota shall be plainly printed, and no portion thereof shall be in type smaller than long primer, and shall be as follows, to-wit:

South Dakota Standard Form

No. \$.....

(Corporate name of the company or association; its principal place or places of business.)

In consideration of dollars to it paid by the insured, hereinafter named, the receipt whereof is hereby acknowledged, does insure and legal representatives and assigns against loss or damage by fire, to the amount of dollars, to the following described property: (Description of property insured.) Bills of exchange, notes, accounts, evidence and securities of property of every kind, books, wearing apparel, plate, money, jewels, metals [medals], patterns, models, scientific cabinets and collections, paintings, sculpture and curiosities are not included in said insured property, unless specifically mentioned.

Said property is insured for the term beginning the day of in the year 19.... at noon, and continuing until the day of in the year 19.... at noon, against all loss or damage by fire originating from any cause except invasion, foreign enemies, civil commotions, riots or any military or usurped power whatever; the amount of said loss or damage to be estimated according to the actual value of the insured property at the time when such loss or damage happens, except that the amount of insurance written herein upon any real property, including structures on land owned by another than the insured, shall be taken conclusively to be the true value of such property and the amount of loss sustained by, and the measure of damages of, the insured, in case the same is wholly destroyed without criminal fault on the part of the insured or his assigns.

This policy shall be void if any material fact or circumstance concerning the risk has been, or the amount of loss shall be, fraudulently concealed or misrepresented by the insured, or if the insured now has or shall hereafter obtain any other insurance on said property without the assent of the company, or if without such assent the property shall be removed, except that if such removal shall be necessary for the preservation of the property from fire or water, this policy shall be valid without such assent for five days thereafter, or if without such assent the situation or conditions affecting the insured property shall be altered so as to materially in-

crease the hazard, if such increase in hazard be occasioned by the act or agency of the insured, or if without such assent the insured shall sell and dispose of all insurable interests in the insured property, or if the premises hereby insured shall remain vacant and unoccupied for more than thirty days without the assent of the company, or if the subject of the insurance be a manufacturing establishment and it be operated in whole or in part at night later than ten o'clock, or if it cease to be operated for more than twenty consecutive days without permission in writing endorsed hereon, or if this policy be assigned before a loss without the assent of the insured [insurer], or without such assent illuminating gas or vapor be generated in the described building (or adjacent thereto) for use therein, or if without the assent of the insurer there be kept on the above described premises dynamite, gunpowder exceeding twenty-five pounds in quantity, naphtha, nito-glycerine or other explosives, or petroleum or any of its products of greater inflammability than gasoline or kerosene oil of lawful fire test (which gasoline and kerosene may be kept and used for lights and usual domestic purposes) and kerosene may be kept for sale according to law, but in quantities not exceeding five barrels, provided it be drawn and lights filled by daylight or at a distance not less than ten feet from artificial light.

If the insured property shall be exposed to loss or damage by fire the insured shall make all reasonable exertions to save and protect the same.

In case of any loss or damage under this policy the insured shall promptly give notice of such loss, and within sixty days from the time of the occurrence of the fire he shall make a statement in writing, sign and swear to the same, and render it to the company, setting forth substantially the property destroyed or damaged and a statement or estimate of the amount of his loss (except in case of total loss on buildings where the fire occurs without criminal fault on the part of the insured, or his assigns, in which case the value of the buildings need not be stated), the interest of the insured therein, all other insurance thereon, the purpose for which the building insured or containing the property insured was used, and by whom occupied, and the time and manner in which the fire originated as far as known to the insured. The company may also examine the vouchers, books and accounts of the insured and make extracts from the same. Should proof of loss not be furnished within six months from the date of loss this policy shall be void, unless such proof of loss shall have been waived.

In case of any loss or damage the company, within sixty days after the insured shall have submitted the statement as hereinbefore provided, shall either pay the amount for which it shall be liable, which amount, if not agreed upon or determined by the provisions of the policy, shall be ascertained by award of appraisers as here-

after provided, or shall replace the property with other of the same kind and quality (except in case of total loss of buildings as aforesaid where the amount of loss is fixed), or it may within fifteen days after such statement is submitted notify the insured of its intention to repair the premises or any portion thereof separately insured by this policy and shall thereupon enter upon said premises and proceed to repair the same with reasonable expedition. It is moreover understood that there can be no abandonment of the property insured to the company, and that the company shall not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable as above provided. It shall be optional, however, with the company to take all or any part of the articles of personal property injured or damaged at the actual or appraised sound value thereof without deduction for damage. If there be any other insurance on the property insured, whether prior or subsequent, the insured shall recover on this policy no greater proportion of loss sustained (except in case of total loss on buildings) than the sum hereby insured bears to the whole amount of insurance thereon.

Except in cases of loss where the amount thereof is fixed, as hereinbefore provided, in the event of disagreement as to the amount of loss the same shall, as above provided, be ascertained by two competent and disinterested appraisers, the insured and this company each selecting one, and the two chosen shall select a competent and disinterested umpire; the appraisers together shall then estimate and appraise the loss, stating separately sound value and damage, and, failing to agree, shall submit their difference to the umpire; and the award in writing of any two shall determine the amount of such loss; the parties thereto shall pay the appraisers respectively selected by them and shall bear equally the expenses of the appraisal and umpire.

If this company shall claim that the fire was caused by the act or neglect of any third person or corporation, private or municipal, this company shall, on payment of the loss, be subrogated to the extent of such payment to all right of recovery by the insured for loss resulting therefrom, and such right shall be assigned to this company by the insured on receiving such payment.

Whenever in this policy the word "insured" occurs, it shall be held to include the legal representative of the insured, and whenever the word "loss" occurs, it shall be deemed the equivalent of "loss or damage."

If this policy shall be made payable to a mortgagee or trustee of the insured real estate, no act or default of any person other than such mortgagee or his agents, or those claiming under him, shall affect such mortgagee's or trustee's rights to recover in case of loss on such real estate. Provided, that such mortgagee or trustee

shall, on demand, pay according to the customary scale of rates for any increase of risk not paid for by the insured. And in case this policy shall have been issued to the owner of the insured property with the loss payable to a mortgagee, and the owner shall have done any act voiding the policy as herein provided, or the policy shall have been cancelled so that the company is not liable to him in any event, then the mortgagee, upon payment to him of the full amount secured by such mortgage, shall assign to the company or companies making such payment the mortgage, together with the note or debt secured thereby.

This policy may be cancelled at any time at the request of the insured, who shall thereupon be entitled to a return of the portion of the above premium remaining after deducting the customary short rates for the time this policy shall have been in force.

The company also reserves the right to cancel this policy as to all risks subsequent to the expiration of five days after the giving of such notice in writing to the insured and to any mortgagee or trustee to whom this policy is made payable, and tendering to the insured the ratable proportion of the premium.

Any person who solicits insurance or issues policies of insurance, or procures applications therefor, shall be held to be, and considered, the general agent of the insurer issuing the policy or making a renewal thereof, except as to proof of loss and adjustment thereof, and neither the application of the insured nor the by-laws of the company shall be considered as a warranty or a part of the contract of insurance.

It shall be the duty of the insurer, in order to avail himself of any provision in this policy rendering it void, to promptly cancel the policy as provided herein upon having or obtaining notice or knowledge of the existence of any facts or circumstances which would, according to the terms of the policy, render it void; otherwise it will be deemed to have waived such provision or provisions voiding the policy. Provided, that if the grounds for cancellation under the last clause shall be distinctly specified in the written notice, such cancellation may be effected upon twenty-four hours' notice to the insured; and actual notice to, or the knowledge of, any agent of the company as above mentioned shall be deemed notice to, and knowledge of, the company.

In witness whereof, this company has executed and attested these presents.

..... Secretary. President.
Dated..... Agent."

§ 3. Penalty] Any insurance company, its officers or agents, or either of them, violating any provisions of this act by making,

issuing, delivering or offering to deliver any policy of fire insurance on property in this state, except as hereinbefore provided, shall be guilty of a misdemeanor, and upon complaint made by the commissioner of insurance or by any citizen of this state, shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than one hundred dollars for the first offense, and not less than one hundred and fifty dollars nor more than three hundred dollars for each subsequent offense, but any policy so made, issued and delivered, shall be binding upon the company issuing the same; and upon conviction for second offense such company shall thereafter be disqualified from doing any insurance business in this state during the remainder of the current year for which such company is licensed.

§ 4. Repeal] Sections 664, 665 and 666 of Article 16 of the Revised Civil Code of 1903 are hereby repealed.

Approved March 10, 1905.

CHAPTER 127

(H. B. 186)

RELATING TO PAYMENT OF INSURANCE TAX MONEYS TO FIRE DEPARTMENTS

AN ACT Entitled an Act to Amend Section 1525 of the Revised Political Code of South Dakota, Relating to Payment of Insurance Tax Moneys to City, Town and Village Fire Departments.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section 1525 of the Revised Political Code of 1903 of the state of South Dakota be and the same is hereby amended so as to read as follows:

Section 1525. No city, town or village shall be entitled to any of the benefits arising from this article unless the fire department shall have been in actual existence eight months prior to the filing of the certificate required by section 1522, and unless such fire department shall have had for such period as a part of its equipment at least one steam, hand or other fire engine or hook and ladder truck or hose cart, with a membership of at least fifteen persons for said period of eight months.

Provided, that any city, town or village which shall maintain a paid fire department consisting of at least six men, who shall devote their entire time to the department at a minimum salary of forty dollars per month to each man, shall by complying with the

provisions of sections 1522 and 1523 of the Revised Political Code of South Dakota be entitled to the monies provided for by section 1524, of the Revised Political Code of South Dakota.

Approved March 7, 1905.

CHAPTER 128

(H. B. 80)

RELATING TO MUTUAL INSURANCE COMPANIES

AN ACT Entitled an Act to Amend Section 1 of Chapter 163 of the Session Laws of 1903, Relating to Insurance by Mutual Insurance Companies, Taking Notes for Unpaid Premiums or Assessments, Prescribing Penalties for Violation Thereof, and Defense to Actions Brought on Such Notes.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 1 of Chapter 163 of the Session Laws of 1903 be and the same is hereby amended so as to read as follows:

Section 1. That section 621 of the Revised Civil Code of 1903 be amended to read as follows:

Section 621. Amendment] Any corporation formed under this act may write insurance upon dwelling houses, stores, and upon all kinds of buildings, and upon household furniture, machinery, growing crops, live stock and other property against loss or damage by fire, lightning, cyclone, tornado or hail. Provided, that in all cases where such corporations take notes from their members as evidence of indebtedness for unpaid premiums or assessments, such notes shall be non-negotiable. Provided, further, that in all cases where such corporations shall take notes from its members, as evidence of indebtedness for all unpaid premiums or assessments, such notes shall have printed in large type, or plainly written across the face thereof in ink, the words "non-negotiable," and any person or agent who shall take any note as evidence of such indebtedness for unpaid premiums or assessments, unless so printed or written, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of fifty dollars, or imprisoned in the county jail for a period of thirty days. And it shall be a sufficient defense and bar to any action instituted to recover upon any note or other evidence of indebtedness, if it shall be proven upon a trial of such action that such note or other evidence of indebtedness was taken in violation of this act.

§ 2. All acts and parts of acts in conflict with the foregoing provisions are hereby repealed.

Approved February 27, 1905.

CHAPTER 129

(H. B. 29)

RELATING TO COUNTY MUTUAL INSURANCE COMPANIES

AN ACT to Amend Section 635 of Article 14 of the Revised Civil Code of 1903, Relating to County Mutual Insurance Companies.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 635 of Article 14 of the Revised Civil Code of 1903 be and the same is hereby amended so as to read as follows:

Section 635 (as amended). Every company so formed shall choose of their number not less than five nor more than nine directors to manage the affairs of such company, who shall hold their office for three years and until others are elected and qualified, and such directors shall choose of their number one president, one vice president, one secretary and one treasurer, who shall hold their respective offices for one year or until their successors are elected and qualified, and such treasurer shall give such bond as may be required by the board of directors of said company; and said company may also require the secretary to give bonds.

Provided, that at the first election one-third of the directors shall be elected for one year, one-third for two years, and one-third for three years.

Provided, further, that when the board of directors of any county mutual insurance company consists of five members, that at the first election after the taking effect of this act, one director shall be elected for one year, two for two years, and two for three years.

Approved February 11, 1905.

CHAPTER 130

(S. B. 235)

PROVIDING FOR ANNUAL STATEMENT OF INSURANCE COMPANIES

AN ACT Entitled an Act to Amend Section 593 of the Revised Civil Code of 1903, as Amended by Chapter 160, Laws of 1903, Relating to Annual Statements of Insurance Companies.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 593 of the Revised Civil Code of 1903 be amended to read as follows:

Section 593. Every insurance company doing business in this state must transmit to the commissioner of insurance a statement of its condition and business for the year ending on the preceding thirty-first day of December, which shall be rendered on the first day of January in each year, or within two months thereafter, except that foreign insurance companies shall transmit their statements of business other than that taken in the United States prior to the following first day of May. The commissioner of insurance shall cause such statement to be published at least three times, at the expense of the company, in a newspaper of general circulation, printed and published in each judicial circuit of the state in which the insurance company shall have an agency. Statements for publication shall be made out on blanks furnished by the commissioner of insurance, and the commissioner of insurance's certificate of authority for the company to do business in this state shall be published in connection with said statement of such company doing business in this state. Proof of publication, to-wit, the printer's affidavit of the fact, shall be filed with the commissioner of insurance in all cases, which affidavit shall state that said insurance company has paid such newspaper the authorized rate for publishing legal notices, and that the full amount named inures to the sole benefit of the publisher or publishers thereof, and that no agreement or understanding for the division thereof has been made with any person, and that no part thereof has been agreed to be paid to any person whomsoever, and every affidavit of publication shall state in plain terms that the full amount authorized herein has been charged and collected for such publication. Provided, the proof of publication herein required shall be filed with the commissioner of insurance within four months from the time of the completed publication of the annual statement. This law is intended to define the lawful rate for the publication of insurance statements. Nothing in this act shall apply to any fraternal or benevolent life association organized under the laws of this state.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 8, 1905.

INSECTS

CHAPTER 131

(S. B. 23)

RELATING TO INJURIOUS INSECTS AND PLANT DISEASES

AN ACT to Prevent the Introduction and Spread of Injurious Insects and Dangerous Plant Diseases in the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. The entomologist of the state experiment station is hereby constituted the state entomologist and charged with the execution of this act. He shall, between the first day of June and the fifteenth day of September of each year, when requested by the owner or agent, or when he has reasonable grounds to believe that any injurious insect pests or dangerous and contagious plant diseases exist, examine any nursery, fruit farm or other place where trees or plants are grown for sale, and if found apparently free from any injurious insect pests or dangerous plant diseases, he shall issue his certificate stating the facts (good for one year unless revoked), and shall collect therefor a fee sufficient to cover his expenses.

§ 2. The state entomologist shall have authority, when requested by the owner, agent or purchaser, or when he has reasonable grounds to believe that any such injurious and dangerous pests exist, to enter upon any of the grounds mentioned in section one hereof, public or private, for the purpose of inspection, and if he finds any nursery or orchard, garden or other place inspected [infected] by any such injurious and dangerous pests, he may enter upon such premises and establish quarantine regulations. If in his judgment any such injurious and dangerous pests may be eradicated by treatment, he may, in writing, order such treatment and prescribe its kind and character. In case any trees, shrubs or plants are found so infested that it would be impracticable to treat them, he may order them burned. A failure for ten days after the delivery of such orders to the owner or person in charge to treat or destroy such infected plants or trees, as ordered, shall make it the duty of the entomologist to perform this work, and to ascertain the cost thereof, and he shall certify the amount of such costs to the owner or person in charge of the premises, and if the same is not paid him within

sixty days thereafter he shall certify the amount thereof to the state's attorney of the county in which the said infested trees or plants are found, whose duty it shall be to proceed forthwith to collect the same of him in a civil suit, and to turn the amount so recovered over to the state auditor to reimburse the state for the money so expended.

§ 3. When nursery stock is shipped into the state, accompanied by a certificate of inspection by a state entomologist from the state from which said nursery stock was shipped, stating that the stock has been inspected and found to be free from any injurious insect pests and dangerous and contagious plant diseases, it shall be held prima facie evidence of the facts therein stated; but the state entomologist, when he have reason to believe that any such stock is, nevertheless, infested by any such injurious and dangerous pests, shall be authorized to inspect the same and submit it to like treatment as that provided for in section two hereof; and if, by reason of the failure for forty-eight hours of the owner of such stock to comply with the treatment prescribed, or to destroy the stock if so ordered, the state entomologist is required to perform the work himself, and it shall be the duty of the entomologist to certify the amount of the cost thereof to the owner or person in charge of such stock so treated or destroyed, and if the same is not paid to him within ten days thereafter he shall certify the amount thereof to the state's attorney of the county in which the stock may be found, in an affidavit, and it shall be the duty of such county attorney to file such affidavit with the register of deeds of the county in which said stock may be, and the same shall thereupon constitute a lien thereon, which it shall be the duty of such state's attorney to proceed to collect forthwith in a civil suit, and to turn over the amount so recovered by him in such suit to the state auditor to reimburse the state for the money so expended.

§ 4. It shall be unlawful for any person, firm or corporation to bring into this state any trees, plants, vines, cuttings or buds, commonly known as nursery stock, unless accompanied by a certificate of inspection by a state entomologist of the state from which the shipment is made, showing that the stock has been inspected and found apparently free from any injurious insect pests, or dangerous and contagious plant diseases.

§ 5. Any persons violating or failing to carry out the provisions of this act, or offering any hindrance to the same, shall be adjudged guilty of a misdemeanor, and upon conviction before any court having proper jurisdiction, shall be fined not less than ten dollars nor more than one hundred dollars for each and every offense, together with all the costs of the prosecution, and shall stand committed until the same is paid.

Approved March 6, 1905.

IRRIGATION

CHAPTER 132

(H. B. 44)

STATE IRRIGATION CODE

AN ACT Entitled an Act to Provide for a State Irrigation Code.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Waters Public] All waters within the limits of the state from all sources of water supply not navigable, belong to the public and are subject to appropriation for beneficial use.

§ 2. Beneficial Use, Appurtenance, Priority] Beneficial use shall be the basis, the measure and the limit of the right to the use of water, that all water used for irrigation purposes shall be appurtenant to specified lands owned by persons claiming the right to use the water, as long as it shall be practicable to beneficially or economically use the water thereon. Priority in time shall give the better right. In all cases of claims to the use of water initiated prior to the passage of this act, the right shall relate back to the initiation of the claim, upon diligent prosecution to completion of the necessary surveys and construction for the application of the water to a beneficial use. All claims to the use of water initiated after the passage of this act shall relate back to the date of receipt of an application therefor in the office of the state engineer, subject to compliance with the provisions of this act, and the rules and regulations established thereunder.

§ 3. Eminent Domain] The beneficial use of water is a public use, and the United States or any person, corporation or association may exercise the right of eminent domain to acquiring a right now or hereafter existing to the use of water for beneficial purposes, or to acquire right of way for the storage or conveyance of waters for beneficial use, including the right to enlarge existing structures and use the same in common with the former owner. Such right of way shall in all cases be so located as to do the least damage to private or public property, consistent with proper and economical engineering construction. Such rights may be acquired in the manner provided by law for the taking of private property for public use.

§ 4. Reclaiming Waters] Waters turned into any natural or artificial water course by any party entitled to the use thereof may be reclaimed below and diverted therefrom by such party, subject to existing rights. Due allowance for losses to be made, as determined by the state engineer.

§ 5. State Engineer—Appointment and Powers] There shall be a state engineer who shall be appointed by the governor and confirmed by the senate. He shall hold office for the term of six years unless removed by the governor for cause, or until his successor shall have been appointed, and shall have qualified. He shall have general supervision of the waters of the state and of the measurements and appropriation thereof, including the duties of locating, surveying and making estimates of the cost of drainage canals and ditches within the state to carry off the surplus waters, caused by overflow of rivers or otherwise, preventing malarial diseases and damage to growing crops. No person shall be appointed to this office except a technically qualified and experienced hydraulic engineer. The state engineer shall receive a salary of \$2,000 per annum.

§ 6. Assistant State Engineer—Bond—Expenses of Office] The state engineer shall have the power to employ an assistant state engineer at a salary not to exceed five dollars per day while actually engaged in the performance of the duties of his office. Before entering upon the duties of his office the assistant state engineer shall give bond, to be approved by the attorney general, for the faithful performance of the duties of his office, in the penal sum of five thousand dollars.

§ 7. Establishment of Office and Traveling Expenses] The office of state engineer shall be in the state capital. The state engineer and assistant state engineer shall be allowed actual and necessary traveling expenses while away from the office on official business.

§ 8. State Engineer's Report] The state engineer shall prepare and deliver to the governor on or before December 31st of the year preceding the regular session of the legislature, and at other times when required by the governor, a full report of the work in his office, including a detailed statement of the expenditures thereof, with such recommendations for legislation as he may deem advisable.

§ 9. Fees of State Engineer] The state engineer shall receive the following fees, to be collected in advance, and to be paid by him into the general fund of the state treasury on the first Monday of January, April, July and October respectively: (a) For filing and examining an application for permit to appropriate water, and map of the same, five dollars. (b) For recording any permit, certificate of construction or license issued, or any other water right instru-

ment, one dollar for the first hundred words and fifteen cents for each additional hundred words or fraction thereof. (c) For filing any other paper, one dollar. (d) For issuing certificates of construction or license to appropriate water, one dollar each. (e) For making copy of any document recorded or filed in his office, fifteen cents for each hundred words or fraction thereof. (f) For blue print copy of any map or drawing, ten cents per square foot or fraction thereof. For other copies or drawings, actual cost of the work. (g) For certifying to such copies, one dollar for each certificate. (h) For examining and approving plans and specifications for any dam not exceeding ten feet in extreme height from the foundation, ten dollars. For a dam higher than ten feet and not exceeding thirty feet, twenty dollars. For a dam higher than thirty feet and not exceeding fifty feet, thirty dollars. For a dam higher than fifty feet, fifty dollars. (i) For inspecting dam sites and construction work when required by law, or when necessary in the judgement of the state engineer, ten dollars per day and actual and necessary traveling expenses. The fees for any inspection deemed necessary by the state engineer and not paid on demand, shall be a lien on any land or other property of the owner of the works, and may be recovered by the state engineer in any court of competent jurisdiction. (j) For such other work as may be required of his office, the fees provided by law.

§ 10. Records of State Engineer] The records of the office of the state engineer are public records and shall remain on file in his office and be open to inspection of the public at all times during business hours. Such records shall show in full all permits, certificates of completion of construction and licenses issued, together with all action thereon, and all action or decisions of the state engineer affecting any rights or claims to appropriate water.

§ 11. Bond of State Engineer] Before entering upon the duties of his office the state engineer shall give bond, to be approved by the attorney general, for the faithful performance of the duties of his office, in the penal sum of five thousand dollars.

§ 12. Rules and Regulations] The state engineer shall make all necessary general rules and regulations to carry into effect the duties devolved upon his office. All such rules and regulations relating to applications for permits to appropriate water, for the inspection of works, for the issuance of license, and for the determination of rights to the use of water, shall be modified by the state engineer, if required by a two-thirds vote of the board of water commissioners hereinafter established.

§ 13. Appeal to Board of Water Commissioners] Such modifications of the rules and regulations of the state engineer shall be voted upon by the board of water commissioners only on an appeal from the decision of the state engineer.

DETERMINATION OF WATER RIGHTS

§ 14. Hydrographic Surveys and Co-operation] The state engineer shall make hydrographic surveys and investigations of each stream system and source of water supply in the state, beginning with those most needed for irrigation, obtaining and recording all available data, for the determination, development and adjudication of the water supply of the state. He shall be authorized to co-operate with the agencies of the federal government engaged in similar surveys and investigations, and in the construction of works for the development and use of the water supply in the state, expending for such purpose any money available for the work of his office.

§ 15. Suit of Adjudication of Water Rights] Upon the completion of such hydrographic survey of any stream system, the state engineer shall deliver a copy thereof, together with copies of all data necessary for the determination of all rights to the use of the waters of such system, to the attorney general of the state, who shall within sixty days thereafter enter suit on behalf of the state for the determination of all rights to the use of such water, and shall diligently prosecute the same to the final adjudication. Provided, that if suit for adjudication of such rights shall have been begun by private parties, the attorney general shall not be required to bring suit. Provided, however, that the attorney general shall intervene in any suit for the adjudication of rights to the use of water on behalf of the state, if notified by the state engineer that in his opinion the public interest requires such action.

§ 16. Parties and Cost of Suits] In any suit for the determination of a right to use of the waters of any stream system, all who claim the right to use such waters shall be made parties. When any such suit has been filed, the court shall, by its order duly entered, direct the state engineer to make or furnish a complete hydrographic survey of such stream system as hereinbefore provided, in order to obtain all data necessary to the determination of the rights involved. The cost of such suit, including the cost on behalf of the state and of such surveys, shall be charged against each of the private parties thereto, in proportion to the amount of water right allotted.

§ 17. Fund for Hydrographic Survey] For the purpose of advancing the money required for any surveys so ordered by the court, there is hereby appropriated and set apart from any moneys in the treasury not otherwise appropriated, a fund of five hundred dollars, which shall be used to pay the expenses of such surveys. The amounts paid by the parties to such suits on account of such surveys shall be returned to such fund, which shall continue to be available for advancing the expenses of such surveys as ordered by the court from time to time.

§ 18. Filing of Decree Adjudicating Water Rights] Upon the adjudication of the rights for the use of the waters of a stream system, two certified copies of the decree shall be prepared by the clerk of the court at the cost of the parties; one copy shall be filed in the office of the state engineer, and the other in the office of the water commissioner of the water division in which the stream system is situated. Such decree shall in every case declare as to the water right adjudged to each party, the priority, amount, purpose, place of use and, as to waters used for irrigation, the specific tracts of land to which it shall be appurtenant, together with such other conditions as may be deemed necessary to define the right and its priority.

APPROPRIATION OF WATER

§ 19. Application for Water Right] Any person, association or corporation hereafter intending to acquire the right to the beneficial use of any waters shall, before commencing any construction for such purpose or before taking the same from any constructed works, make an application to the state engineer for a permit to appropriate, in the form required by the rules and regulations established by him. Such rules and regulations shall require the applicant to state all the data necessary for the proper description and limitation of the rights applied for, together with such information, maps, plans and specifications as may be necessary to show the method and practicability of the construction and the ability of the applicant to complete the same. All maps, plans and specifications shall be filed in duplicate, one copy to be retained in the office of the state engineer after the approval of the application. The state engineer may require additional information not provided for in the general rules and regulations, in any case involving the diversion of five hundred cubic feet of water per second or more, or the construction of a dam more than thirty feet high from the foundation. The owners of works proposing to store or carry water in excess of their needs for beneficial use, may make application for such excess and shall be held as trustees of such right for the parties applying the water to a beneficial use, and shall be required to furnish the water for such parties at reasonable rates for storage, or carriage, or both, as the case may be.

§ 20. Filing and Correction of Applications] The date of receipt of such applications in the state engineer's office shall be endorsed thereon and noted in his records. If the application is defective as to form, or unsatisfactory as to feasibility or safety of the plan, or as to the showing of the ability of the applicant to carry the construction to completion, it shall be returned with a statement of the corrections or changes required, within thirty days after its receipt, and sixty days shall be allowed for the re-filing thereof. If re-filed, corrected as required, within such time, the application shall, upon being accepted, take priority as of the date of its original

filing, subject to compliance with the further provisions of the law and the regulations thereunder. Any corrected application filed after the time allowed shall be treated in all respects as an original application received on the date of its re-filing. Provided, that the plans of construction may be amended, with the approval of the state engineer, at any time; but no such change shall authorize an extension of time for construction beyond five years from the date of the permit, except as provided in section thirty.

§ 21. Publication of Notice] Upon the filing of an application which complies with the provisions of this act and the rules and regulations established thereunder, the state engineer shall instruct the applicant to furnish notice thereof, in a form prescribed by him, in some newspaper of general circulation in the stream system, once a week for four consecutive weeks. Such notice shall give all essential facts as to the proposed appropriation, among them the places of appropriation and of use, amount of water, the purpose for which it is to be used, name and address of applicant and the time when the application will be taken up by the state engineer for consideration. Proof of publication as required shall be filed with the state engineer within sixty days from the date of his instructions to make publication. In case of failure to file satisfactory proof of publication in accordance with the rules and regulations applicable thereto, within the time required, the application shall thereafter be treated as an original application filed on the date of receipt of proofs of publication in proper form.

§ 22. Approval of Application] Upon the receipt of the proofs of publication, the state engineer shall determine from the evidence presented by the parties interested, from such surveys of the water supply as may be available, and from the records, whether there is unappropriated water available for the benefit of the applicant. If so, he shall endorse his approval on the application, which shall thereupon become a permit to appropriate water, and shall state in such approval the time within which the construction shall be completed, not exceeding five years from the date of approval, and the time within which the water shall be applied to a beneficial use, not exceeding four years in addition thereto.

§ 23. Rejection and Appeal] If, in the opinion of the state engineer, there is no unappropriated water available, he shall reject such application. He shall decline to order the publication of notice of any application which does not comply with the requirements of the law and the rules and regulations thereunder. He may also refuse to consider or approve an application or to order the publication of notice thereof, if in his opinion the approval thereof would be contrary to the public interest. Any applicant may appeal from such decision of the state engineer, or from any other decision by him which denies a substantial right, within sixty days

from the date thereof, to the circuit court of the county in which the proposed place of diversion or storage is situated. In the absence of such appeal, the decision of the state engineer shall be final.

§ 24. Prosecution of Work] The construction of the works shall be diligently prosecuted to completion, and if one-fifth of the work shall not be completed within one-half the time allowed, the state engineer may accept and approve, as herein provided, an application for the use of all or any of the waters included in the permit issued to the prior applicant, and the right to use such waters under such permit shall thereupon be forfeited.

§ 25. Completion of Work] On or before the date set for the completion of the work, the state engineer shall cause the work to be inspected, after due notice to the owner of the permit. Such inspection shall be thorough and complete, in order to determine the actual capacity of the works, their safety and efficiency. If not properly and safely constructed, the state engineer may require the necessary changes to be made within a reasonable time, not to exceed six months, and shall not issue his certificate of completion until such changes are made. Failure to make such changes shall cause the postponement of the priority under the permit for such time as may elapse from the date for completing such changes until made to the satisfaction of the state engineer, and applications subsequent in time shall have the benefit of such postponement of priority. Provided, that the works involving the diversion of not exceeding twenty cubic feet of water per second, or a dam not exceeding ten feet in extreme height from the foundation, the engineer may, in his discretion, accept the certificate of inspection of any reputable hydraulic engineer.

§ 26. Certificate of Completion] When the works are found in satisfactory condition, after inspection, the state engineer shall issue his certificate of construction, setting forth the actual capacity of the works, and such limitations upon the water right as shall be warranted by the condition of the works. But in no manner exceeding the rights described in the permit.

§ 27. Inspection of Works] If the state engineer shall in the course of his duties find that any works used for the storage, diversion or carriage of water are unsafe and a menace to life and property, he shall at once notify the owner or his agent, specifying the changes necessary and allowing a reasonable time for putting the works in safe condition, not exceeding three months. Upon the request of any party, accompanied by the estimated cost of inspection, the state engineer shall cause any alleged unsafe works to be inspected. If they shall be found unsafe by the state engineer, the money deposited by such party shall be refunded, and the fees for inspection shall be paid by the owner of such works, and, if not

paid by him within thirty days after the decision of the state engineer, shall be a lien against any property of such owner, to be recovered by suit instituted by state's attorney of the county at the request of the state engineer. The state engineer may, when in his opinion it is necessary, inspect any works under construction for storage, diversion and carriage of water, and require any changes necessary to secure their safety. The fees for such inspection shall be a lien on any property of the owner and shall be subject to collection as provided herein. Provided, that any works constructed by the United States, or by its duly authorized agencies, shall not be subject to such inspection while under the supervision of officers of the United States.

§ 28. Use of Unsafe Works] The use of works for the storage, diversion or carriage of water, at any time after an inspection thereof by the state engineer and receipt of notice from him that the same are unsafe for the purpose for which they are used, until the receipt of notice from him that in his opinion they have been made safe, shall be a misdemeanor and it shall be the duty of the state engineer to give prompt notice to the state's attorney of the county in which such works are located, in case of such violation. The state's attorney shall at once proceed against the owner, and all parties responsible therefor.

§ 29. Application to Beneficial Use] On or before the date set for the application of water to a beneficial use, the state engineer, shall cause the works to be inspected, after due notice to the owner of the permit. Upon the completion of such inspection, the state engineer shall issue a license to appropriate water to the extent and under the conditions of the actual application thereof to beneficial use, but in no manner extending the right described in the permit. Provided, that the inspection to determine the amount of water applied to a beneficial use shall be made at the same time as that of the constructed work, if requested by the owner, and if such action is deemed proper by the state engineer.

§ 30. Extension of Time] The state engineer shall have power to extend the time for completion of construction or for application to beneficial use, for three years and two years, respectively, but only on account of delays due to physical or engineering difficulties which could not have been reasonably anticipated, or by operation of law beyond the power of the applicant to avoid.

§ 31. Assignment of Permit or License] Any permit or license to appropriate water may be assigned, but no such assignment shall be binding, except upon the parties thereto, unless filed for record in the office of the state engineer. The evidence of the right to use water from any works constructed by the United States, or its duly authorized agencies, shall in like manner be filed in the office of the state engineer, upon assignment. Provided, that

no right to appropriate water for irrigation purposes shall be assigned, or the ownership thereof in any wise transferred, apart from the land to which it is appurtenant, except in the manner especially provided by law. Provided, further, that the transfer of title to land in any manner whatsoever shall carry with it all rights to the use of water appurtenant thereto for irrigation purposes.

§ 32. Transfer of Water Record] It shall be the duty of the county recorder and the county clerk of each county in the state, within thirty days of the passage of this act, to prepare and forward by express or registered mail, at the expense of the county, to the state engineer, a transcript of all records relating to water rights, provided that they may forward any original records in their office which have been duly recorded. The state engineer shall classify and arrange such papers to conform to the stream systems, and shall send copies thereof relating to each water division to the water commissioner thereof. He shall likewise forward to the water commissioner copies of all records, permits, and licenses to appropriate water relating to his division, and shall advise him of all acts and decisions of the state engineer's office affecting the apportionment of waters in his division.

§ 33. Referee in Water Suits] In any water suit the court may appoint a referee or referees, not exceeding three, to take testimony and report upon the rights of the parties, as in other equity cases.

§ 34. Attorney General and State's Attorneys Advisors of State Engineer] The attorney general and the state's attorney of the county in which legal questions arise shall be the legal advisers of the state engineer, and shall perform any and all legal duties necessary in connection with his work, without other compensation than their salaries as fixed by law, except when otherwise provided.

§ 35. Charges for Carrying and Delivering Water] The owner or owners of any works for the storage, diversion or carriage of water, which contain water in excess of their needs for irrigation or other beneficial use, for which it has been appropriated, shall be required to deliver such surplus, at reasonable rates for storage, or carriage, or both, as the case may be, to the parties entitled to the use of the water for beneficial purposes. In case of the refusal of such owner or owners to deliver any such surplus water at reasonable rates, as determined by the state engineer, they may be compelled to do so by the circuit court for the county in which the surplus water is to be used.

§ 36. Appropriation of Waters by the United States] Whenever the proper officers of the United States, authorized by law to construct works for the utilization of waters within the state, shall notify the state engineer that the United States intends to utilize certain specified waters, the waters so described, and unappropriated

at the date of such notice, shall not be subject to further appropriation under the laws of this state, for a period of three years from the date of said notice, at which time the proper officers of the United States shall file plans for the proposed works in the office of the state engineer for his information, and no adverse claim to the use of such water, initiated subsequent to the date of such notice, shall be recognized under the laws of this state, except as to such amount of the water described in such notice as may be formally released in writing by an officer of the United States thereunto duly authorized. Provided, that in case of failure to file plans of the proposed works within three years, as herein required, the waters specified in the notice given by the United States to the state engineer shall become public waters, subject to general appropriation.

WATER COMMISSIONERS

§ 37. Water Divisions] The state shall be divided into water divisions as follows:

Division 1. Butte, Meade and Lawrence counties.

Division 2. All counties west of the Missouri river except Butte, Meade and Lawrence counties.

Division 3. All counties east of the Missouri river.

§ 38. Water Commissioners] A water commissioner shall be appointed by the governor for each water division as hereinafter established, to serve for a term of six years or until his successor shall have qualified, and shall be subject to removal by the governor. Provided, that the water commissioners first appointed after the passage of this act shall serve for terms specified as follows: Water division No. 1, six years; water division No. 2, four years; water division No. 3, three years.

§ 39. Duties of Water Commissioners] Each water commissioner shall have the supervision of the apportionment of water in his division, according to the licenses issued by the state engineer and the adjudication of the courts. Each commissioner shall have the custody of the records relating to his division, which shall be public records and shall be transmitted to his successor in office. Each water commissioner, before entering upon the duties of his office, shall take and subscribe an oath of office and give a bond with good and sufficient sureties to be approved by the supreme court, in the sum of two thousand dollars, for the faithful performance of the duties of his office, which oath and bond shall, upon approval, be filed in the office of the secretary of state.

§ 40. Board of Water Commissioners] The water commissioners of all the water divisions, together with the state engineer, who shall be president thereof, shall constitute the board of water commissioners, which shall have general supervision of the apportionment of the waters of the state. The board shall adopt general

rules and regulations to govern its proceedings. The state engineer shall have a vote on all matters coming before the board, except appeals, authorized by law, from his acts as the state engineer. The board shall meet on the first Monday in March in every year, at the office of the state engineer, and at such other times and places as may be agreed upon by a majority of its members, whereupon the state engineer shall give notice of such meeting to all members.

§ 41. Pay to Water Commissioners] The water commissioners shall be paid from the state treasury at the rate of five dollars per day for the time actually engaged in official duties, not exceeding one hundred days in one year. They shall also be paid actual and necessary traveling expenses while away from their homes on official business.

§ 42. Water Districts] The state engineer shall, from time to time, as may be necessary, for the economical and satisfactory apportionment of the water, divide each water division into water districts, to be designated by names and comprise, so far as possible, one or more distinct stream systems in each district. The districts may be changed from time to time, as may in his opinion be necessary for the economical and satisfactory apportionment of the water.

§ 43. Appeals to State Engineer] Any person may appeal from the acts or decisions of the water commissioner to the state engineer, who shall promptly and at a stated time and place, to be fixed by him, upon due notice to the parties, hear and determine the matter in dispute, and his decision shall be final, unless an appeal is taken to the courts within thirty days.

MISCELLANEOUS PROVISIONS

§ 44. Units of Measurements] The standard of measurement of the flow of water shall be the cubic foot per second of time; and the standard of measurement of the volume of water shall be the acre foot, being the amount of water upon an acre covered one foot deep, equivalent to forty-three thousand five hundred sixty (43,560) cubic feet. The miner's inch shall be regarded as one-fiftieth of a cubic foot per second in all cases, except when some other equivalent of the cubic foot per second has been specially stated by contract, or has been established by actual measurement or use.

§ 45. Abandonment] When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of two years, such unused water shall revert to the public and shall be regarded as unappropriated public water.

§ 46. Amount of Water for Irrigation] In the issuance of permits to appropriate water for irrigation purposes or in the adjudication of rights to the use of water for such purpose, the amount

allowed shall not be in excess of the rate of one cubic foot of water per second for each seventy acres, or its equivalent thereof, delivered on the land for a specified time each year.

§ 47. Water Appurtenant to Land for Irrigation Purposes] All water used in this state for irrigation purposes shall remain appurtenant to the land upon which it is used. Provided, that if for any reason it should at any time become impracticable to beneficially or economically use water for the irrigation of any land to which the right of use of the same is appurtenant, such right may be severed from said land, and simultaneously transferred and become appurtenant to other land without losing priority of right theretofore established, if such changes can be made without detriment to the existing rights, upon the approval of an application of the owner to the state engineer. Before the approval of such application, the applicant must give notice thereof by publication once a week for four weeks in a newspaper of general circulation in the stream system in which the tracts of land are located, in the form required by the state engineer. Upon receipt of the proofs of publication the state engineer shall render his decision thereon in writing, which shall be final, unless some party interested in the same source of water supply may bring appropriate action in the circuit court of the county in which the land is located, for a review of such decision. If the owner of the land to which water has become appurtenant abandons the use of such waters, upon such land, such waters shall become public waters, subject to general appropriation.

§ 48. Change of Use or Place of Diversion] Any appropriator of water may use the same for other than the purpose for which it was appropriated, or may change the place of diversion, storage or use, in the manner and under the conditions described in section forty-seven of this act.

§ 49. Measuring Devices] Every ditch owner shall construct and maintain a substantial headgate at the point where the water is diverted, and shall construct a measuring device, of a design approved by the state engineer, at the most practical point or points for measuring and apportioning the water, as determined by the state engineer. The state engineer may order the construction of such device by the ditch owner, and if not completed within twenty days thereafter, the water commissioner shall, upon instructions from the state engineer, refuse to deliver water to such owner. The taking of water by such ditch owner until the construction of such device and the approval thereof by the state engineer, shall be a misdemeanor. Such device shall be so arranged that they can be locked in place, and when locked by the water commissioner or his authorized agent, for the measurement or apportionment, it shall be a misdemeanor to interfere with, disturb or change the same, and the use of water through such device, after having [been] interfered

with, disturbed or changed, shall be prima facie evidence of the guilt of the person benefited by such interference, disturbance or change.

§ 50. Unlawful Interference With the Rights to the Use of Water] Any person, association or corporation interfering with or injuring or destroying any dam, headgate, weir, bench-mark or other appliance for the diversion, storage, apportionment or measurement of water, or for any hydrographic survey, or who shall interfere with any person or persons engaged in the discharge of duties connected therewith, shall be guilty of a misdemeanor and shall also be liable for the injury or damage resulting from such unlawful act. The water commissioner, or any authorized assistant within his district, shall have power to arrest any person offending against the provisions of this section and deliver him to the nearest peace officer of the county. It shall be the duty of the person making the arrest to make complaint at once before the court having jurisdiction thereof. The state engineer, the water commissioners, and their authorized assistants and agents, may enter upon any private property for the performance of their respective duties, doing no unnecessary injury thereto.

§ 51. Unlawful Use of Water and Waste] The unauthorized use of water to which another person is entitled, or the wilful waste of water to the detriment of another, shall be a misdemeanor. It shall also be a misdemeanor to begin or carry on any construction of works for storing or carrying water until after the issuance of a permit to appropriate such waters, except in the case of construction carried on under the authority of the United States.

§ 52. Bridges Over Ditches and Canals] The owner or owners of any ditch, canal or other structure for storing or carrying water shall construct and maintain a substantial bridge where the same crosses any highway or publicly traveled road, not less than fourteen feet wide; or reconstruct the road in a substantial manner and a convenient location for public travel. Any violation of the provisions of this section shall be a misdemeanor. The county commissioners shall be authorized to construct such bridge or road, if not built by the owner of the work within three days after the obstruction of the road, and may recover the expense thereof and costs in a civil suit, unless the same shall be paid by the owner of the works within ten days after demand therefor. The county commissioners may make reasonable requirements as to the size and character of the bridges along the public highways, or for the necessary reconstruction of roads, and, upon failure to comply therewith, may do the necessary work and collect the expense thereof and costs as hereinbefore provided. After the construction of such bridge or road as part of a public highway, the same shall be maintained by the county commissioners.

§ 53. Obstructing Works] Whenever any appropriator of water has the right of way for the storage, diversion or carriage of water, it shall be unlawful to place or maintain any obstruction that shall interfere with the use of the works, or prevent convenient access thereto. Any violation of the provisions of this section shall be a misdemeanor.

§ 54. Penalty for Misdemeanors Under this Act] All violations of the provisions of this act, declared herein to be misdemeanors, shall be punished by fine not exceeding one hundred dollars not less than twenty dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment; and any justice of the peace of the county in which such misdemeanor has been committed shall have jurisdiction thereof.

§ 55. Liens on Land] All liens on land, provided for in this act, shall be superior in right to all mortgages or other incumbrances placed upon the land and the water appurtenant thereto or used in connection therewith, after the passage of this act.

§ 56. Seepage Water] In the case of seepage water from any constructed works, any party desiring to use the same shall make application to the state engineer, as in the case of unappropriated water, and such party shall pay to the owner of such works reasonable charge for the storage or carriage of such water in such works. Provided, that the appearance of such seepage water can be traced beyond reasonable doubt to the storage or carriage of water in such works. The state engineer shall not issue a permit to appropriate such seepage water until an agreement for the payment of such charges shall have been entered into by said parties.

§ 57. Right of Way Over Other State Lands] There is hereby granted, over all school and public lands now or hereafter belonging to the state, a right of way for ditches or canals, tunnels and telephones and transmission lines constructed by authority of the United States. All conveyances and contracts of sale of school and public lands made after the taking effect of this act, except patents or deeds to lands sold prior thereto, shall contain a reservation of such right of way. Purchasers of school and public lands shall have the right to obtain water from any irrigation system, parts of which may be located on said school and public lands. Provided, such lands are purchased within five years after the construction of any such irrigation system.

§ 58. Disposition of State Lands] No lands belonging to the state, within the areas to be irrigated from works constructed or controlled by the United States, or its duly authorized agencies, shall hereafter be sold, except in conformity with the classification of farm units by the United States, and the title of such land shall not pass from the state until the applicant therefor shall have fully complied with the provisions of the laws of the United States and

the regulations thereunder concerning the acquisition of the right to use water from such works, and shall produce the evidence thereof duly issued. After the withdrawal of lands by the United States for any irrigation project, no application for purchase of state lands within the limits of such withdrawals shall be accepted, except upon the conditions prescribed in this section. Any state lands needed by the United States for irrigation works shall be sold to the United States at the lowest price authorized by law. Provided, however, that prior to the construction of any canal or ditch or water-way over or across any school or public lands of this state under the provisions of this act there shall be filed in the office of the commissioner of school and public lands a map or plat of said proposed canal, ditch or water-way clearly indicating the course of the same and the acreage required in its construction and the amount of land proposed to be taken out of each smallest legal subdivision of said school or public lands in the construction of the canal, ditch or water-way.

§ 59. Irrigation Canals] Where any canal supplies water to lands under it for rent by the acre or unit of measurement, the land shall thereafter be entitled to water from said canal. Provided, the charge for the same is paid up each year. In case of a disagreement as to the price to be charged per year, the county commissioners of the county in which the canal is situated may set the price to be paid, after taking sufficient evidence of the cost of the works and maintenance, that a fair and clean decision may be rendered.

§ 60. Appropriations] The sum of four thousand and five hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury, for the salaries and expenses herein authorized for the fiscal years commencing July 1, 1905, and ending June 30, 1907.

§ 61. Repeal] All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Approved March 3, 1905.

LIVE STOCK

CHAPTER 133

(H. B. 144)

RELATING TO ERADICATION OF DISEASES AMONG DOMESTIC ANIMALS

AN ACT to Create a State Live Stock Commission, Defining Its Powers and Duties, Providing for Appointment of County Cattle Inspectors and for the Eradication of Contagious, Infectious and Communicable Diseases Among Domestic Animals, and Appropriating Money for the Purpose of Enforcing the Provisions of This Act.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. State Live Stock Commission Provided For] A commission is hereby established, to be known and designated as the state live stock commission, which said commission shall consist of five members, to be appointed by the governor, two members of said commission to be selected from that part of the state west of the Missouri river and three members from that part of the state east of the Missouri river; any three of said commission shall constitute a quorum for the transaction of business. One of the members of said commission shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year, and whose terms of office shall commence on the first day of March, 1905, and the successor of each shall be appointed for the term of five years, annually, thereafter. Said members so appointed shall hold their office until their successors are appointed and qualified, and are removable for cause by the governor at any time. Each member of said commission shall be a qualified elector of the state of South Dakota, and all members of said commission shall be persons who are actively and financially engaged in the breeding and maintaining of live stock, and cattle in particular, in said state of South Dakota.

§ 2. Powers and Duties of the Commission] It shall be the duty of the state live stock commission to meet at a convenient place to be designated by them as soon as appointed and qualified, for the purpose of organizing said commission, and to meet thereafter at least twice a year, or oftener if deemed necessary for the protection and welfare of the live stock interests of the state. Said commission shall organize by taking and subscribing to the usual oath of

office, which shall be filed with the secretary of state, and by the election of a president, vice president and secretary, all of whom shall be members of said commission; but the officers herein provided for shall receive no additional compensation for the duties performed by them, other than actual expenses paid out in the discharge of their official duties. The duties of said officers shall be those which are usually incumbent upon officials bearing said titles. The secretary shall attend to the correspondence of the commission and perform all other duties assigned to him by said commission. It shall be the duty of said state live stock commission to protect the health of all domestic animals of this state; to determine and employ the most efficient and practical means for the prevention, control and eradication of dangerous, contagious, infectious or communicable diseases among the domestic animals in the state of South Dakota; and for these purposes it is hereby authorized and empowered to make such rules, orders and regulations for the conduct of the business of said commission as it may deem necessary and expedient. In case of an epidemic of contagious, infectious or communicable diseases among the domestic animals of the state, said commission is hereby empowered to establish a quarantine of the infected district, and to employ any and all means necessary to carry into effect any orders it may make for the purpose of enforcing said quarantine. The state veterinarian for the state of South Dakota shall be the executive official of the state live stock commission, and shall at all times, when called upon, act as the advisor and counselor of said commission in all matters in regard to the suppression and eradication of diseases among domestic animals, and for said service he shall receive no other compensation than that of his regular salary as now provided by law. The compensation of the members of said live stock commission shall be \$3 per day for each and every day in which they are actually employed in the discharge of their duties at the meetings above provided for, including the time necessarily consumed in going thereto and returning from said meetings, and actual and necessary traveling expenses. They shall take receipts for all moneys expended and attach the same to their accounts to be filed with the state auditor monthly, and on receipt of said accounts the state auditor shall audit said accounts and draw his warrant on the treasury for the amount due thereon, which said amount shall be paid out of the state live stock commission fund hereinafter provided for.

§ 3. Appointment of County Cattle Inspectors] In every county in this state containing, according to the assessment thereof, two thousand or more cattle, a cattle inspector shall be appointed in the following manner: It is hereby made the duty of the county auditor to call a meeting of the cattle owners of said county, to be held at the county seat, for the purpose of choosing a cattle inspector for said county. Said county auditor shall give notice of such meet-

ing by publishing the same for at least two successive weeks immediately prior to the date of such meeting in the official papers of said county, which notice shall state the time and place of holding such meeting and the purpose for which it is called. The county auditor shall call such meeting to order, and the cattle owners of said county present at said meeting shall proceed to elect a county cattle inspector. Said county cattle inspector shall be a resident owner of cattle in said county and actively engaged in said business, and shall be possessed of a reasonable knowledge of the common diseases of cattle, so as to qualify him to hold said position. The county auditor shall act as secretary of said meeting, and upon its adjournment shall immediately notify the state veterinarian of the action taken by said meeting and request that he appoint as county cattle inspector for said county the person so selected at said meeting, and the state veterinarian shall immediately appoint said person as county cattle inspector for said county. The county cattle inspector so appointed shall hold his office for the term of one year from and after the first of March, 1905, and his successor shall be selected and appointed in the same manner as herein provided. Said county cattle inspector shall receive as compensation for his services an amount to be fixed and paid by the county commissioners of said county, wherein he is county cattle inspector, which amount shall in no case exceed the sum of \$4 per day, nor less than \$3 per day for each and every day in which he is actually employed in the discharge of his duties, and no allowance shall be made for mileage or other expenses, or for horse, team, transportation or board above said amount. In case the cattle owners in any county fail to select a county cattle inspector the board of county commissioners shall make the selection of a person who shall be a resident cattle owner of said county for which he is selected, and shall notify the state veterinarian of such selection, and the state veterinarian is hereby required to appoint said person so selected to said position.

Whenever the county commissioners of any county deem it necessary for the best interests of the county and the cattle owners thereof to remove the county cattle inspector, they are hereby authorized so to do, and to declare the said office vacant, and to appoint a successor to hold said office until a successor be selected by the cattle owners of said county. Upon said office being declared vacant by the county commissioners of said county, it shall be the duty of the county auditor to immediately call a meeting of the cattle owners of said county as heretofore provided, and it shall be the duty of the cattle owners at said meeting to select a county cattle inspector for said county to fill said vacancy, and said inspector shall hold said position until his successor be selected, appointed and qualified. The said county cattle inspector shall report weekly to the state veterinarian, on blanks to be furnished by the state veterinarian at the ex-

pense of the state, which said blanks shall be printed on good paper, shall be numbered consecutively by said county cattle inspector, shall be made out with ink or typewriter, shall be neat and legible, and shall contain the name, postoffice address of the owner of cattle dipped by him or his deputies, the date of the first and second dipping, and whether said cattle were infected or had been exposed; the number, sex and age of said cattle so dipped; the location, by section, township and range, where said cattle are owned; the number of the dipping tank where dipped, and the fees charged therefor, and whether same have been collected. All blanks, books, records and stationery necessary for the proper carrying into effect of the rules, regulations, orders, announcements and other actions of the state live stock commission, the state veterinarian or deputy state veterinarians, the county cattle inspectors and the deputy county cattle inspectors, shall be furnished by the state of South Dakota, and it is hereby made the duty of the state veterinarian to furnish the copy for said blanks, books, etc., and prescribe the size and form in which they shall be bound.

§ 4. Powers and Duties of County Cattle Inspectors] It shall be the duty of county cattle inspectors to protect the health of the cattle of his county, to determine and employ the most efficient and practical means for the prevention, suppression and eradication of dangerous, contagious, infectious and communicable diseases among the same in his county, and whenever he shall have knowledge or information that any cattle within his jurisdiction have the scabies or any infectious, contagious or communicable skin disease, or have been exposed to such infectious, contagious or communicable diseases, it shall be his duty to inspect said cattle either in person or cause a deputy, hereinafter provided for, to perform said duties, and if it is found that said cattle are so infected, or have been exposed, he shall forthwith cause said cattle to be quarantined, and notify the owner or person in charge of them of the fact upon a printed form to be furnished by the state, and he shall also file a copy of said notice in the office of the county auditor of said county. It is further made the duty of the said county cattle inspector to give the owner or person in charge of said cattle directions for the treatment thereof, and it is hereby made incumbent upon the owner or person in charge of said cattle, within ten days from date of service of said notice on him, to comply with the instructions or orders of said county cattle inspector in regard to the treatment of said cattle so infected or exposed. If said owner or person in charge of said cattle refuses for more than ten days to comply with the orders or instructions of said county cattle inspector, the county cattle inspector is hereby authorized and empowered to cause said cattle to be treated as by him is deemed necessary, and all expense incurred in said matter shall be certified by said county cattle inspector to the board

of county commissioners of said county, who shall allow and pay said account, and shall cause the same to be entered as a tax against the owner of said cattle, which said tax shall be a lien upon said cattle; and in case the owner thereof attempts to remove the same from said county, or dispose of the same without paying said tax, the county treasurer is hereby empowered and authorized to proceed to collect the same in the manner now provided for the collection of taxes. Said tax shall be a lien upon said cattle wherever the same may be found, until paid.

§ 5. Qualifications and Duties of County Cattle Inspector Every county cattle inspector and every deputy county cattle inspector, before entering upon the duties of his office, shall take an oath that he will support the constitution of the United States and of the state of South Dakota, and will faithfully and impartially perform the duties of his office; which said oath shall be filed with the county auditor and be a permanent file of his office. And when so required by the county commissioners, he shall give a bond to the county in the sum of twice the amount of money likely to be in his possession at any one time. Said bond shall be approved, filed and recorded as other bonds now required by law. Every county cattle inspector shall keep a correct record of all his official acts, and when required shall give a certified copy thereof upon the payment of the legal fees. In case of a county cattle inspector's death, resignation or removal from office, said record shall be deposited with the county auditor, or at the end of his term of office shall be delivered to his successor. Whenever any county cattle inspector shall willfully and falsely report any cattle to be infected with any contagious, communicable or infectious skin disease, or willfully or falsely report any cattle inspected by him to be free from all contagious, infectious or communicable skin disease, he shall forfeit his office as such county cattle inspector, and shall be subject on conviction thereof to a penalty of not less than \$25 nor more than \$100 and removal from office.

§ 6. Appointment and Duties of County Deputies] The county cattle inspector is hereby empowered and authorized to appoint deputy county cattle inspectors, whose duty it shall be to carry out his instructions in regard to the prevention, suppression and eradication of contagious, infectious or communicable diseases among cattle. In all cases where cattle are being dipped for the eradication of contagious, infectious or communicable diseases, it shall be necessary for the proprietor of the dipping tank in which said animals are being dipped, to notify the county cattle inspector of the time and place when he intends to dip cattle at his tank, and it is hereby made the duty of said county cattle inspector so notified to be present at all times or send deputy when cattle are being dipped in said tank, and to see that the same are dipped in accordance with the rules, orders

and regulations of the bureau of animal industry of the Department of Agriculture of the United States; and if at any time he finds that said rules and regulations are not being complied with, or have not been complied with, he shall immediately stop the dipping of cattle in said tank until the said rules and regulations aforesaid are being complied with; and he shall have power to cause to be dipped again any cattle that may have been previously dipped, concerning which he shall have doubt as to the efficiency of said dipping to prove effectual. Said deputy county cattle inspector shall be paid the sum of 30 cents per hour or fraction thereof in which he may have been engaged in dipping said cattle, which amount shall be paid by the owner or person in charge of said cattle.

§ 7. Disputes, How Settled] In case of any dispute arising between the owner or person in control of stock supposed to be affected with any contagious, infectious or communicable disease and the county cattle inspector, an appeal may be taken from the decision of the said county cattle inspector to the nearest deputy state veterinarian, and in said case it shall be the duty of the county cattle inspector to immediately notify the state veterinarian, who shall instruct the nearest deputy state veterinarian to go at once, inspect said stock so alleged to be affected, and to determine the nature of the supposed disease and prescribe treatment therefor. If the deputy state veterinarian finds that said stock is not affected with any infectious, contagious or communicable disease, all fees and expenses of said deputy state veterinarian shall be paid for by the county commissioners of said county out of the county general fund, but if said deputy state veterinarian finds said stock to be affected with any contagious, infectious or communicable disease, all expense pertaining thereto, including additional expense and wages of the county cattle inspector in said case, shall be paid by the owner or person in charge of said cattle; but if said owner or person in charge of said cattle fails or refuses to pay said expense, it shall be the duty of the board of county commissioners to pay same, and said amount shall be collected as hereinbefore provided in case of dipping cattle by such county cattle inspector.

§ 8. Dipping Tanks Provided For] Immediately after the passage and approval of this act, it shall be the duty of the county auditor in each organized county of this state to make a list of all tanks which are, or hereafter may be constructed in their respective counties for the purpose of dipping cattle. Each tank shall be given a number, and no two tanks in the same county shall have the same number. The location of each tank by quarter section, township and range, together with the name of the person or persons, firm or corporation owning and operating such tank, shall be recorded by the county auditor in a book kept for that purpose, which record shall at all times be open to the public. Should the owner of any

such dipping tank desire to take any and all cattle for the purpose of dipping, he shall so notify the county auditor, and said dipping tank shall become a public dipping tank for the purposes of this act, where cattle may be dipped by the county cattle inspector or his deputies for a certain fixed price, as hereinafter provided. Any person or persons, firm or corporation who own or operate, or may hereafter own, construct or operate a dipping tank in any county in this state for the purpose of dipping cattle for themselves, or for the public for pay, shall, before commencing operations, make application to the county auditor of such county in which said tank is situated to have said tank numbered and registered as heretofore provided. Before said tank be numbered by the county auditor, said tank shall be inspected by the county cattle inspector or his deputy or an inspector for the bureau of animal industry, or a deputy state veterinarian, and the approval thereof filed with the county auditor.

§ 9. County May Construct Dipping Tanks] In any county in this state, the county commissioners, upon petition of fifteen resident cattle owners of said county, shall establish, construct, maintain and operate a public dipping tank for the purpose of dipping cattle, but no tank shall be constructed, operated or maintained by said county at a point less than twelve miles from a public dipping tank, measuring said distance by section lines, except at railway shipping points. Said dipping tank shall be for the purpose of dipping cattle affected with infectious, contagious or communicable skin diseases, and shall be operated under the direction of the county cattle inspector of said county, or his deputies, at all times, in accordance with the provisions of this act. The commissioners shall establish the charges for the dipping of cattle in such county tank, and the deputy in charge of such tank shall certify to the county cattle inspector the name and postoffice address of the owner of cattle so dipped by him, the date of first and second dipping, whether said cattle were infected or exposed; the number, sex and age of same; the location by section, township and range where said cattle are owned; the number of the tank where dipped; the fees charged therefor; and shall account to the county cattle inspector for all such fees so collected. The charges for dipping said cattle shall be collected by said county cattle inspector or his deputies, and by the county cattle inspector turned over to the county treasurer of said county to be placed in the county general fund. He shall also file with the county auditor a detailed statement of all receipts and disbursements in connection with the management of the tank of which he has charge. In case the report is made by a county cattle inspector, a separate and detailed report shall be made for each separate tank.

§ 10. Dipping Cattle Running at Large] In every county in this state where cattle are allowed to run at large, it shall be the duty of the county cattle inspector or his deputy, whenever he or

they shall have knowledge of any cattle running at large that are affected with any infectious, contagious or communicable skin disease, or have been exposed to any infectious, contagious or communicable skin disease, to immediately take possession of said cattle and cause the same to be dipped, as required by the bureau of animal industry, at the tank most convenient. The inspector or deputy in charge of the tank where such cattle are dipped shall issue a certificate to the owner or owners of such tank, and another to the owner or owners of the cattle so dipped, on a suitable printed form furnished by the state, stating the number of cattle so dipped, the brands thereon, the name of the owner, if known to the inspector or his deputy, his postoffice address, if known to the inspector or his deputy, and the cost of handling and dipping said cattle, the number of the tank at which said cattle were dipped, the name of the owner or owners of such tank, and each certificate shall bear the true date upon which said cattle were dipped, and the possession of such certificate bearing the signature of the county cattle inspector or his deputy, and two witnesses who were present when said cattle were dipped, shall be sufficient evidence of the indebtedness of the owner or owners of such cattle to the holders of such certificates, and such certificate shall be a perpetual lien against such cattle until paid; provided, that the charges for gathering and dipping shall in no case exceed the sum of \$1.05 per head when dipped according to bureau of animal industry regulations. In case said charges are not paid within thirty days, said cattle or any cattle of like brand and same ownership shall be subject to seizure and sale by the sheriff of said county or his deputy, the same as in the collection of delinquent personal property tax.

§ 11. State Veterinarian May Appoint Deputies] For the purpose of carrying into effect the provisions of this act, the state veterinarian is hereby authorized and empowered to appoint as many deputy state veterinarians as he may deem necessary, but he shall in no event appoint any person as such deputy who is not a graduate of a recognized veterinary college. The compensation of said deputy state veterinarians is hereby fixed at \$5 per day for each and every day necessarily employed in the discharge of his duties, as provided for in this act, together with necessary actual traveling expenses, which said amount shall be paid out of the state treasury monthly upon the proper filing of an expense account and vouchers, showing actual disbursements in each separate case. It shall be the duty of the state veterinarian to issue certificates of dipping to the owner or person in charge of cattle who have complied with the requirements of this act, when he is so assured of same by report from the county cattle inspector.

§ 12. Appropriation] There is hereby appropriated out of the state treasury of this state the sum of ten thousand dollars for the

purpose of carrying into effect the provisions of this act. Said appropriation shall constitute what shall be known as the state live stock commission fund, and all expenditures payable by the state of South Dakota in carrying out the provisions of this act shall be paid by the state treasurer of the state of South Dakota upon warrants issued by the auditor of said state, as provided by law.

§ 13. Bureau of Animal Industry—Rules to be Observed] In the treatment of all cattle affected with infectious, contagious or communicable skin diseases, or that have been exposed to any infectious, contagious or communicable skin diseases, the state veterinarian and his deputies and the county cattle inspector and his deputies shall obey in detail the instructions, rules, recommendations and regulations of the department of agriculture as expressed in the orders last furnished by the bureau of animal industry; and all of the said officials shall have in their possession at all times for ready reference a copy of the said orders mentioned in this article. The county auditor shall keep copies of the same as a part of the records of his office for inspection by the public, and shall supply each county cattle inspector and his deputies with copies thereof.

§ 14. Shipping or Driving Cattle] In case the owner or person in charge of cattle desires to move the same from one county to another, or from one part of the state to another part, either on foot, by railroad or ferry boat, he shall notify the county cattle inspector of the county wherein said cattle are located, and it shall be the duty of said county cattle inspector or his deputy to immediately inspect said cattle, and if he finds the same to be free from infectious, contagious or communicable skin diseases, he shall give said owner or person in charge a certificate to that effect, which certificate shall be valid for ten days from date of said inspection in any county of this state.

If said county cattle inspector finds said cattle to be affected with any infectious, contagious or communicable skin disease, he shall refuse said certificate until said cattle are treated as provided in this act; but nothing in this act shall be construed to prevent owners or persons in charge of cattle moving the same from one county to another for the purpose of dipping or for the purpose of changing pasture, so long as they are kept on the owner's land or accustomed range, or for immediate shipment, when they are to be inspected by a qualified inspector, or for immediate slaughter. Railroad, ferry and bridge companies or proprietors are hereby prohibited receiving cattle for shipment from one part of the state to another until said certificate herein provided for be produced for examination by the agent or proprietor of said railroad, ferry or bridge company. Upon the arrival of cattle at any of the railroad stations, ferry or bridge landings in this state, it is hereby made the duty of the agents of said company to notify the county cattle inspector or

a deputy county cattle inspector of said county of such arrival, and said county cattle inspector shall immediately inspect said cattle, and if found to be free from infectious, contagious or communicable skin disease he shall issue a certificate to the owner or person in charge to that effect; but if said cattle are found to be infected with any contagious, infectious or communicable skin disease he shall immediately quarantine said cattle and cause them to be treated as provided in this act. In case of inspection by a deputy county cattle inspector, he shall receive the same fees as are paid county cattle inspectors, to be allowed and paid in the same manner.

Provided, That if the owner or person in charge of said cattle exhibit to the agent of the railroad, ferry or bridge company a certificate not over ten days old, from the county cattle inspector or deputy of any county of the state that said cattle have been dipped as required in this act, or a certificate from any county cattle inspector of this state, a deputy state veterinarian, the state veterinarian or an inspector of the bureau of animal industry, that said cattle are free from contagious, infectious or communicable skin diseases, as found by an inspection within the past ten days, said cattle shall be considered as free from such disease, and it shall not be incumbent on said company to notify the county cattle inspector of the arrival of such cattle.

§ 15. Cattle Deemed Affected] Any cattle shipped or driven into this state not accompanied by a certificate furnished by a representative of the bureau of animal industry, showing that said cattle had been dipped within ten days of the date of arrival, in accordance with the rules of the bureau of animal industry, shall be deemed affected with contagious, infectious or communicable skin diseases, and shall be treated by the county cattle inspector as provided for in this act.

§ 16. Penalty] Any person, firm, corporation or copartnership who shall willfully, negligently or maliciously violate any of the provisions of this law shall be deemed guilty of a misdemeanor, and shall on conviction thereof be subject to a fine of not less than \$25 nor more than \$100, or to imprisonment for not more than thirty days, or to both fine and imprisonment, in the discretion of the court.

§ 17. Acts Repealed] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 18. Emergency] Whereas, there is no adequate law for the suppression of infectious, contagious or communicable diseases of cattle, an emergency is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved February 24, 1905.

CHAPTER 134

(S. B. 36)

RELATING TO REWARDS FOR CAPTURE OF HORSE, SHEEP OR CATTLE THIEVES

AN ACT Entitled an Act Empowering County Commissioners to Authorize Sheriffs to Offer Rewards for the Capture and Conviction of Horse Thieves, Sheep Thieves or Cattle Thieves, and to Provide for the Payment of the Same.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That the county commissioners of the several counties may and are hereby empowered to authorize the sheriffs of their respective counties within this state to offer rewards, not to exceed the sum of one hundred dollars in any case, for the capture and conviction of any person charged with stealing a horse or horses, sheep or cattle, within their respective counties, and the county commissioners of such counties shall audit and pay such rewards.

Approved March 7, 1905.

MEATS

CHAPTER 135

(S. B. 168)

RELATING TO INSPECTION OF MEATS, SLAUGHTER HOUSES AND MARKETS

AN ACT Entitled an Act to Provide for the Inspection of Animals Intended for Meat Supplies, and of Meat Intended for Consumption in Cities, Villages and Townships, to Regulate Slaughter Houses and Meat Markets, and to License the Sale of Meats in Cities, Villages and Townships.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Any city or village in this state may appoint an inspector or inspectors of animals and meat supplies intended for human consumption therein, license the sale thereof, provide for the regula-

tion of slaughter houses wherein such animals intended for use as human food in such city or village are slaughtered, and the markets and places where meat intended for consumption as human food is kept or offered for sale within such city or village, the vehicle in which such meat is transported, or from which same is sold, offered for sale, or disposed of for said purpose.

§ 2. No person or persons shall vend or offer for sale in any city or village having an inspector of meats, as provided by this act, any meat intended for human consumption, whether slaughtered within such city or village or elsewhere, unless licensed to do so by the city council or the board of trustees thereof. Any person or persons desiring so to do may apply to the auditor of such city or village clerk for a license; but the auditor or clerk shall not issue same until the applicant thereof presents a statement in writing, signed by him, which shall fully state: (a) The name and residence of said applicant; (b) the exact location or place from which said applicant obtains his meats, whether slaughtered by himself in whole or in part; (c) the manner in which said applicant intends to dispose of his meats when licensed; (d) a written consent, granting permission to the meat inspector, the health officer or his representative, or any member of the board of health, the mayor or any alderman of said city, or the president and trustees of said village, free and open access to the slaughter house in which he proposes to slaughter, or vehicle from which his meat is sold, for the purpose of making inspection of said premises, market or vehicle. Blanks for such applications shall be furnished by the clerk.

Each applicant for a license shall also stipulate in writing that he will faithfully conform to, and cause the slaughter house, market or vehicle, owned, leased or occupied by him, to comply in all respects with the requirements of the ordinance of said city or village, enacted under the provisions of this act, and pay such license fee as shall be prescribed therein. The city auditor or village clerk shall not issue any license until the meat inspector shall have examined into the sanitary condition and cleanliness of the slaughter house to be used by the applicant, or the market where his meat is to be sold or offered for sale, and shall certify that same comply with the requirements of the ordinance in force therein. The mayor of said city, or president of said village, may at any time revoke and suspend any license issued pursuant thereto, if upon investigation and report of the meat inspector, and after hearing the holder of such license summarily, he shall find the condition of the slaughter house where meat is slaughtered, or the market or vehicle, or the meat offered for sale, to be in violation of the provisions of said ordinance, filthy or detrimental to the public health; which revocation shall continue until such person shall have fully complied with the requirements of this act and the provisions of said ordinance. This section shall

apply to slaughter houses, whether situated within or without the city limits.

Provided, however, the provisions of this act shall not apply to any farmer or stockman, or owner of fowls, or who slaughters for his own use or for market his own live stock and fowls, of any kind or description, when he is not engaged generally in the business of slaughtering.

§ 3. Each city or village having a meat inspector under the provisions of this act shall establish by ordinance such requirements, in conformity herewith, as are necessary for the purpose of excluding from within its limits, for sale or use as human food, any diseased or unwholesome meat which has been prepared, dressed or stored in an unsanitary or filthy place; and each city or village shall authorize and empower its inspector or inspectors to enforce such tests and requirements, and shall provide and enforce suitable penalties for the violation of the provisions of such ordinance.

§ 4. Any city or village, having enacted an ordinance under the provisions of this act, shall immediately appoint a person qualified by education and experience to properly perform the duties of the office of inspector, who shall hold his office for one year and until his successor is appointed and qualified, and such deputies with like qualifications as may be necessary, who shall hold office for a like term; and such inspector and all deputy inspectors shall take an oath of office to faithfully and impartially discharge all the duties thereof. The inspector shall promptly report to the city or village attorney, or to the proper prosecuting officer, for prosecution of every violation of the ordinance in force in such city or village under the provisions of this act, and shall also report to the board of health of said city or village, at least monthly, all inspections made by him, and all violations of said ordinance.

§ 5. Any city or village having enacted an ordinance under the provisions of this act shall specify the following requirements for all slaughter houses within its limits: (a) No slaughtering shall be done in barns, sheds or other buildings not designed and not suitable for slaughtering animals, and for the handling, dressing and cooling of meats. (b) All slaughter houses shall have an abundant supply of water, from a well or other source which is not contaminated from the slaughter house or surrounding pens or enclosures or any part of the premises. (c) Cooling and store rooms for meat shall be properly ventilated. (d) All offal and refuse shall be removed from the slaughter house on the day of slaughtering, and disposed of in a decent and sanitary manner. (e) All animals kept in yards attached to slaughter houses shall be treated in a humane manner, and if kept there over twelve hours shall be fed and watered. (f) All pens and enclosures connected with any slaughter house shall be kept in a proper sanitary condition.

§ 6. Any city or village having a meat inspector under the provisions of this act may refuse to permit to be brought within its limits, to be sold or offered for sale therein, any meat from any slaughter house situated outside its limits whose owner, lessee or occupant has not conformed to the requirements specified in section five of this act, and the provisions of the ordinance enacted by said city or village, pursuant to this act and in force therein.

§ 7. Any city or village having an inspector under the provisions of this act shall appropriate out of its general fund such sums of money as shall be deemed proper for the salary of the inspector and his deputies, and in addition thereto may apply the license fee and any fees accruing from the inspection of animals and meats, to be paid thereunder, for that purpose, or require said fees to be covered into the city or village treasury.

§ 8. All deputy inspectors shall have the same powers and perform all the duties devolving upon the inspector, under his direction and superintendence, except that they shall make all reports required by this act to the inspector, by whom same shall be reported, as hereinbefore provided.

§ 9. All meat which has been inspected by federal authority shall not be subject to local inspection, except as to market, vehicle or place at or from which it is to be sold or offered for sale, and as to changes or decomposition.

§ 10. In all prosecutions for violation of any ordinance enacted pursuant to this act, the fact that any meat is found in any slaughter house, market or vehicle within such city or village shall be presumptive evidence that the same was intended for use as human food.

§ 11. No slaughter house shall be established or maintained nearer to the limits of any city or village than is prescribed by law in this state.

Approved March 7, 1905.

MEDICAL EXAMINERS

CHAPTER 136

(S. B. 133)

RELATING TO THE BOARD OF MEDICAL EXAMINERS

AN ACT to Amend Sections 2 and 23, Chapter 176, Session Laws of South Dakota, 1903, Relating to the Board of Medical Examiners of This State.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section 2, Chapter 176 of the Session Laws of 1903 of the State of South Dakota, be amended to read as follows:

Section 2. Governor to Appoint] The governor shall immediately upon the taking effect of this act appoint seven skilled and capable physicians, who shall constitute said board, two of whom shall hold their office for one year, two for two years, and three for three years from the date of their respective appointments, and until their successors are appointed, and the governor shall each year thereafter, on or before the first day of April, appoint for the term of three years, two or three, as the case may be, skilled and capable physicians to fill the vacancies caused by the expiration of the terms of such members, as above provided. The governor shall fill by appointment all vacancies occasioned by death or otherwise.

§ 2. Be it Further Amended] That section 23, Chapter 176 of the Session Laws of 1903 of the state of South Dakota, be amended to read as follows:

Section 23. Presentation of Fraudulent Diplomas—Penalty] Any person who shall present to the board of medical examiners a fraudulent or false diploma, or one of which he is not the rightful owner, for the purpose of procuring license as herein provided, or who shall file or attempt to file with the register of deeds of any county in the state a license of another, representing the same to be his own, or shall falsely personate any one to whom a license has been granted, or who shall file or attempt to file with the register of deeds of any county in this state a license of another with the name of the party to whom it was granted or issued erased, and his own name inserted in its place, or who shall file or attempt to file with the board of medical examiners any false or forged affidavits

of identification, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100), or by imprisonment in the county jail for a period of not more than thirty days, or by both such fine and imprisonment.

Any person who shall practice medicine or surgery or obstetrics in any of their branches in this state without having obtained a license as in this act provided, and had such license recorded in the office of the register of deeds of the county in which such person resides and practices, as hereinbefore provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100), or by imprisonment in the county jail for a period of not more than thirty days, or by both such fine and imprisonment; provided, that the provisions of this section shall not apply to the provisions of sections 19 and 20 of this act, nor modify or change [the] penalties prescribed in section 20 hereof.

§ 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. Whereas, an emergency exists, this law shall be in full force and effect immediately upon its passage and approval.

Approved February 28, 1905.

MOTOR VEHICLES

CHAPTER 137

(S. B. 15)

RELATING TO MOTOR VEHICLES

AN ACT Entitled an Act Requiring Registration of Motor Vehicles and Regulating Their Use or Operation upon Highways or Streets.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Terms Defined] The words and phrases used in this act shall, for the purposes of this act only, be construed as follows:
1. "Motor vehicle" shall include all vehicles propelled by any power

other than muscular power, excepting such motor vehicles as run only upon rails or tracks, provided that nothing herein contained shall apply to traction engines or road rollers; 2. "Closely built up portions," shall mean the territory of a city, town or village contiguous to a public highway devoted to business or where for not less than one-fourth ($\frac{1}{4}$) of a mile the dwelling houses on such highway average not more than one hundred (100) feet apart.

§ 2. Statement—Fees] Every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the secretary of state a statement of his name and address, with a brief description of the vehicle to be registered, on a blank to be prepared and furnished by such secretary for that purpose. The filing fee shall be one (\$1) dollar.

§ 3. Statement Filed—Registration Number] The secretary of state shall thereupon file such statement in his office, register such motor vehicle in a book to be kept for that purpose, and assign it a number, beginning with the number one (1) and so on in the order of filing.

§ 4. Change of Owner—Re-Registration] Every person acquiring a motor vehicle shall file a like statement with the secretary of state, and such secretary of state shall, in like manner, file such statement, register such vehicle and assign it a number. If the vehicle has previously been registered, such fact and number assigned it shall be set forth in the statement, and the previous registration shall be cancelled; but the number of such previous registration may be assigned under the new registration.

§ 5. Seal] The secretary of state shall forthwith on such registration, and without other fee, issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form, not over two (2) inches in diameter, and have stamped therein the words "Registered in the office of the secretary of state for South Dakota, under the motor vehicle law, No.," with the registration number inserted therein; which seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned.

§ 6. Number Displayed] Every motor vehicle shall also at all times have the number assigned to it by the secretary of state displayed on the back of such motor vehicle in such a manner as to be plainly visible, the number to be in Arabic numerals, each not less than three (3) inches in height, and each stroke to be of a width not less than one-half ($\frac{1}{2}$) inch, and also as a part of such number the two capital letters "S" and "D," each of which shall be of a height not less than two inches, and each stroke to be of a width not less than one-third of an inch.

§ 7. Non-Resident Owner] The provisions of sections two (2) to five (5) inclusive shall not apply to motor vehicles owned and op-

erated by non-residents of this state, provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as provided by section six (6) of this act.

§ 8. Regulations] No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person, or in any event in the closely built up portions of a city, town or village, at a greater rate than one (1) mile in six (6) minutes, or elsewhere in a city, town or village at a greater rate than one (1) mile in four (4) minutes, or elsewhere outside of a city, town or village at a greater rate than twenty (20) miles per hour; subject, however, to the other provisions of this section. Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control and operate it at rate of speed less than hereinbefore specified, and in no event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

§ 9. Caution Signals] Any person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding or driving a horse or other draft or domestic animals, upon the highway or upon land within one hundred feet of the highway, bring such motor vehicle immediately to a stop, or if such horse or other draft or domestic animals show signs of fright, he shall, whether signal is given or not, stop at once; and if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animals to pass, and, if traveling in the same direction, use reasonable caution in passing such horse or animal, and the operator and occupants of any motor vehicle shall render necessary assistance to the party having in charge said horse or other draft animal in so passing.

§ 10. Brakes, Signal Bell or Horn, Lamps] Every motor vehicle while in use on a public highway shall be provided with good and efficient brakes, and also with a suitable bell, horn or other signal, and be so constructed as to exhibit, during the period from one (1) hour after sunset to one (1) hour before sunrise, one or more lamps showing white light visible within reasonable distance in the direction toward which such vehicle is proceeding, and also a red light visible in the reverse direction, showing the registered number of the vehicle in separate Arabic numerals not less than one inch in height and each stroke to be not less than one-quarter of an inch in width.

NORTHEASTERN HOSPITAL FOR THE INSANE

CHAPTER 138

(S. B. 173)

ESTABLISHING THE NORTHEASTERN HOSPITAL FOR THE INSANE
AN ACT to Establish a Northeastern Hospital for the Insane.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Location] That an additional hospital for the insane, to be known as the Northeastern Hospital for the Insane, be, and is hereby established and located at Watertown, Codington county, South Dakota, to be constructed upon land now belonging to the state, to-wit: upon section seven, in township one hundred and sixteen, range fifty-two west fifth P. M.; provided, no money shall be appropriated for building a second insane hospital until there shall be in the state hospital for insane at Yankton the proper maximum number of one thousand patients.

Approved March 2, 1905.

NORTHERN HOSPITAL FOR THE INSANE

CHAPTER 139

(S. B. 189)

DEFINING THE OBJECTS AND PURPOSES OF THE NORTHERN HOSPITAL FOR THE INSANE

AN ACT Defining the Objects and Purposes of the Northern Hospital for the Insane, and Providing for Its Management and Control.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Purpose] The purpose of said institution shall be the custody, care and education of such imbecile, feeble minded and epileptic persons as are hereinafter designated.

§ 2. Control] Said institution shall be under the control of the state board of charities and corrections, and said board shall have, with reference to the control and management of said institution, the same powers and perform the same duties as are required by law for the management and control of the several penal and charitable institutions of this state.

§ 3. Purpose Further Defined] The purpose and object of said institution shall be to provide care and special means of improvement for the following classes of persons, to-wit: those who were born, or by special disease have become imbecile, feeble minded or epileptic; to provide means of instruction and mental and physical training for all such persons as are capable of receiving the same; also to provide for the custody and care of all such imbecile or feeble minded or epileptic persons who are incapable of receiving mental or physical training. Provided, that persons who have become feeble minded [by] reason of age shall not be entitled to the benefits of said institution.

§ 4. Officers and Employees] The board of charities and corrections shall appoint a competent superintendent for this institution, who, before entering upon the duties of his office, shall give a bond to the state of South Dakota in the sum of five thousand (5,000) dollars, with sureties to be approved by said board, for the faithful discharge of his duties. Said superintendent shall have supervision of the care, treatment and education of the inmates of said institution, under the direction of the state board of charities and corrections, and in accordance with the rules and regulations

established by said board. Under the advice and consent of said board of charities and corrections, the superintendent shall appoint a competent matron for said institution, and competent instructors for the education of those inmates capable of receiving instructions, and other necessary employes for the management of said institution. The compensation of all officers and employes for the management of said institution and for the education, treatment and care of the inmates thereof shall be fixed by said board.

§ 5. Who May be Admitted] All persons coming within the classes designated in section four (4) of this act as proper subjects for custody, care or training in said institution, and who have been residents of this state for one year next preceding their admission to said institution, shall be entitled to be received at said institution and maintained and educated and cared for at the expense of the state, if, in the judgment of the superintendent, the applicant is a suitable person to receive its benefits, and if the capacity of such institution and its facilities will permit. Provided, that the expenses for clothing and incidentals of inmates of such institution shall be paid as provided in this act. Provided, further, that persons now inmates of said institution, whose parents, guardians or relatives are non-residents of this state, may be retained in said institution, but for all such a fair compensation shall be paid, to be fixed by the board of charities and corrections.

§ 6. Parents and Guardians to Provide for Clothing and Incidentals] Parents, guardians or those having legal control, sending any person or persons for care, education or custody in said institution, shall pay the expenses of transportation to and from their homes. They shall also pay the sum of thirty (30) dollars per annum in advance for each such inmate for clothing and incidentals. Provided, that if it be shown to the satisfaction of the board of charities and corrections that said parent, guardian or person having such legal control is financially unable to pay said thirty dollars per annum, then, and upon the order of said board, such feeble minded, imbecile or epileptic person may be admitted without the payment of said thirty dollars.

§ 7. Persons Without Guardians May be Committed] When any person belonging to any of the classes named in section four of this act is found in any county in this state, and who is without a legal guardian in said county, such person may be committed to the custody of the superintendent of the northern hospital by the county judge of said county, on complaint of the state's attorney of such county, and in which case the county shall pay the expenses of such commitment and transportation to said school. When a person is committed, as in this section provided, the superintendent of the northern hospital shall have the legal custody of such person, with all the rights of a guardian of the person as provided by law.

§ 8. Repeal] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 9. Emergency] Whereas, an emergency is hereby declared to exist, this act shall be in force from and after its passage and approval.

Approved March 8, 1905.

NOTES

CHAPTER 140

(S. B. 38)

RELATING TO CERTAIN INSTRUMENTS

AN ACT Entitled an Act making Certain Notes Non-Negotiable, Providing for Their Being so Marked, and Providing Penalty for Violation Thereof.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Every person who takes any obligation in writing for any lightning rod, or any of its attachments, or for any patent right, or right claimed to be a patent right, or for payment of premium or assessment for mutual hail insurance, shall, before such writing is signed by the maker, stamp or write in red ink across the face of such written obligation, in plain legible writing, or print, the words: Given for a lightning rod; or, given for a patent right; or, given for premium or assessment for mutual hail insurance, as the case may require. Such obligation, so stamped, shall not be negotiable.

§ 2. Any person who shall violate the provisions of this act is guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than two hundred and fifty dollars, and not exceeding one thousand dollars, or by imprisonment in the county jail not more than one year, or by both such fine and imprisonment, and shall also be liable in a civil action to the party injured for all damages sustained by him.

Approved March 7, 1905.

CHAPTER 141

(H. B. 75)

RELATING TO PRACTICE OF MEDICINE AND FORM OF CERTAIN NOTES

AN ACT Entitled an Act to Regulate the Practice of Medicine, and the Form of Notes and Contracts Taken for Medicines or Medical Treatment, Making Certain Acts and Practices Criminal, and Prescribing Penalties.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Every note, contract or other obligation in writing, given in whole or in part for medical treatment or medicine, shall have written or printed therein that the same is given for medical treatment or medicine and is non-negotiable.

§ 2. Any person who takes or receives any note, contract or other obligation in writing, either in whole or in part for medicine or medical treatment, without having it written or printed therein that said note, contract or obligation was given for medical treatment or medicine and that the same is non-negotiable, and any person knowing the same to have been given in whole or in part for medicine or medical treatment, who shall sell or dispose of any note, contract or obligation, given in whole or in part for medical treatment or medicine, until all of the medical treatment or all of the medicine, in consideration of which said note, contract or obligation was given, has been wholly furnished, shall, on conviction thereof, be deemed guilty of a misdemeanor.

§ 3. Any person who shall contract or guarantee, in writing, to cure any disease or ailment, shall, in case he or she fails to cure such disease or ailment, or perform such contract or guaranty, be deemed guilty of a misdemeanor.

§ 4. All acts and parts of acts in conflict with this act are hereby repealed.

§ 5. An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved February 25, 1905.

OILS

CHAPTER 142

(S. B. 216)

RELATING TO ILLUMINATING OILS

AN ACT to Amend Chapter 189 of the Session Laws of 1903, Entitled "An Act to Amend Article 28 of Chapter 27 of the Political Code of 1903 of the State of South Dakota, Relating to the Inspection of Petroleum Products, the Appointment of Inspectors, Establishing of Inspection Districts, Fees and Salaries of Inspectors, and Prohibiting the Sale of Adulterated Oils, and Providing Penalties for Violations Thereof."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 3 of Chapter 189 of the Session Laws of 1903 is hereby amended so as to read as follows:

Section 3. Unlawful to Sell Oil Before Inspection—Must Conform to Certain Conditions] It shall be unlawful for any person, corporation or association to sell or offer for sale or give away any illuminating oils until the same shall have first been inspected by the state oil inspectors or their deputies, and it is further provided that it shall be unlawful for any person, corporation or association to sell or offer for sale any product of petroleum for illuminating purposes that does not conform to the following conditions: First, the color shall be water white, but a slight bluish opalescence is permissible. It shall not contain water nor tar-like matter. It shall not contain more than a trace of any sulphur compound. It shall not contain more than four per cent by weight of residue after being distilled at a temperature of not more than five hundred seventy degrees Fahrenheit. It shall not give a flash test below one hundred five (105) degrees Fahrenheit, open test, and the tester used for such purpose shall be the New York state board of health tester. The gravity shall not be less than forty-six (46) degrees, measured by the Beaume hydrometer, at a temperature of sixty degrees Fahrenheit. Provided, however, that in the case of illuminating oils made from the petroleum produced from wells in what is commonly known as the Kansas oil fields (including the state of Kansas and the adjacent oil fields in Oklahoma and Indian Territory), when properly labeled as hereinafter provided, such illuminating oils may be sold and

offered for sale in this state for illuminating purposes where the gravity shall not be less than forty-two (42) degrees, as measured by the Beaume hydrometer at a temperature of sixty degrees Fahrenheit, and the residue contained therein shall not be more than seven per cent by weight after being distilled at a temperature of not more than five hundred seventy (570) degrees Fahrenheit. Provided, further, that every tank, barrel, cask or receptacle in which illuminating oils produced from the Kansas oil fields shall be shipped into this state shall be truly, plainly and conspicuously labelled in large letters, "Kansas Oil," or words of similar import. The state oil inspectors or their deputies shall reject all oils for illuminating purposes that do not meet any one or all of the foregoing requirements. Any oils that present a yellowish or dark colored, dirty appearance to the eye may be rejected and disapproved for illuminating purposes by the inspectors or their deputies without further test. And such discoloration shall be prima facie evidence that they are not such a product as is properly subject to sale for illuminating purposes within this state. The state oil inspectors and their deputies are not required in every case to make a complete analysis of the oils inspected to ascertain every form of impurities, such as sulphur and tar-like matter, but whenever, in the opinion of the state inspectors or their deputies, it is necessary that any of the oils provided for in this section shall be more thoroughly analyzed, it shall be his duty to procure a sample of such oil and forward it to the nearest state chemist for the purpose of a more detailed analysis, to determine in what particular the impurities or imperfections exist. And if upon such analysis it is demonstrated that some other impurity or imperfection exists in said oil not in this act specified that renders such oil unfit for illuminating purposes, it shall be his duty to reject such oil for such purposes. It shall be the duty of such chemist to make such analysis without delay and without expense to the state and return such at the earliest practical moment to said oil inspector from whom it was received. Any person violating any of the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than three hundred dollars.

§ 2. That section 5 of Chapter 189 of the Session Laws of 1903 is hereby amended so as to read as follows:

Section 5. Fees for Inspection—Where Inspected] The said inspectors shall be entitled to demand and receive from the owner or person calling upon them, or for whom they shall inspect, the sum of thirty cents for testing and marking a single barrel; twenty cents each when not exceeding ten in number, and ten cents per barrel when the number of barrels is greater than ten submitted at one time for inspection. When the amount contained in any tank,

cask or other vessel shall exceed fifty-five gallons, each fifty-five gallons shall constitute a barrel. All oils in quantities less than fifty barrels shall be inspected at a railroad or river station, unless the person requesting such inspection shall pay the inspector in advance, in addition to the compensation hereinbefore provided, ten cents per mile for each mile necessarily traveled in going to and returning from the place where such inspection is to be made, the distance to be computed from the place of residence of such inspector.

§ 3. Emergency] Whereas, it is desirable to permit the introduction of Kansas illuminating oils into this state at once; and, whereas, such oils do not and cannot comply with the existing standards and requirements prescribed by the statutes of this state; therefore, an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1905.

OSTEOPATHY

CHAPTER 143

(H. B. 159)

RELATING TO PRACTICE OF OSTEOPATHY

AN ACT Entitled an Act to Amend Section 366 of Chapter 4 of the Revised Political Code of 1903, Relating to the Practice of Osteopathy.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section 266 of Chapter 4 of the Revised Political Code of the state of South Dakota of 1903, be and the same is hereby amended so as to read as follows:

Section 266. Any person who shall practice or attempt osteopathy in treating diseases, or any ailment whatsoever of the human body, or who shall use any of the terms or letters, "osteopath," "osteopathist," "osteopathy," "doctor of osteopathy," "diplomat in osteopathy," or "D. O.," or any other titles or letters under such circumstances as to induce the belief that the person who uses such terms is engaged in the practice of osteopathy, without having

complied with the provisions of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars (\$100) or more than five hundred dollars (\$500) or be imprisoned in the county jail not less than thirty days nor more than six months, or both in the discretion of the court. All such fines collected shall be paid to the school fund of the county in which such prosecution is had. It shall be the duty of the state's attorney in the county in which such person resides or practices when notified of such violation, to take charge of and conduct the prosecution under this act.

§ 2. Repeal] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1905.

PAROLE

CHAPTER 144

(H. B. 18)

RELATING TO PAROLE OF CONVICTS

AN ACT to Provide for the Conditional Release and Parole of Convicts Confined in the Penitentiary, Regulating Their Conduct during such Period of Parole, Providing for the Return of Convicts Violating the Conditions of Such Parole, Providing the Duties of Public Officers in Connection Therewith, and Penalty for the Failure of a Public Officer to Comply with the Terms of this Act.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Official Statement of Judge and Attorney] Whenever any person shall be convicted of a felony, it shall be the duty of the judge before whom such person is convicted, and also of the state's attorney of the county in which he or she is convicted, to furnish the warden of the penitentiary with an official statement of the facts and circumstances constituting the crime whereof the convict has been convicted, together with all the information accessible to them in regard to the career of the convict prior to the time of the committal of the crime of which he is convicted, relating to the habits, associates, disposition and reputation of such convict, and any other facts or circumstances which may tend to throw any light upon the

question as to whether he is capable of again becoming a law abiding citizen. It shall be the duty of the court stenographer, at the direction of the judge of the said court, to write the official statements of the judge and state's attorney above referred to, at the time of the conviction of the convict, and it shall be the duty of the clerk of the courts to cause such official statements to be attached to the order of commitment, to be delivered by the sheriff of the county to the warden of the penitentiary at the time of the delivery of the convict; and it shall be the duty of the warden upon receipt of such convict to safely keep and record such official statement and have the same at all times ready for the inspection of the board of charities and the governor.

§ 2. Registration of Convict] When any convict shall be received in the penitentiary the warden shall cause to be entered in the register kept for the purpose the date of such admission, the name, nativity, nationality and all other facts that can be ascertained, in addition to said official statement regarding the parentage, education, occupation and early social influences as may tend to indicate the constitutional and acquired defects and tendencies of the convict, and shall also cause careful examination, measurement and record to be made of the convict according to the Bertillon system. The physician of said penitentiary shall carefully examine each convict when received, and shall enter in the register to be kept by him, the name, race, nationality, weight, stature and family history of such convict, and also a statement of the condition of the heart, lungs and other leading organs, the rate of pulse and respiration, the measurement of his chest and abdomen, and any existing disease, deformity, marks or disability, acquired or inherited, with all the facts regarding his health and physical condition. There shall be entered from time to time upon the register of the warden minutes of any fact affecting the standing and condition of said convict, and any subsequent facts of his personal history which may be brought to the knowledge of the warden bearing upon the question of parole or final release; and it shall be the duty of the warden or deputy warden to furnish the governor with a copy of the records kept by the warden and by the physician of the penitentiary when requested, and all other facts that may have come to the knowledge of the warden concerning any convict whose parole or final release the governor may be considering, and also to give his opinion in writing, when requested by the governor, regarding the fitness of any convict for parole or final release.

§ 3. Duty of the Warden] It shall be the duty of the warden and deputy warden to study the life, habits, previous environments and nature of the convicts confined in the state penitentiary, with a view of determining the advisability of recommending any of said convicts for parole, and when of the opinion that a prisoner has been

confined in the penitentiary a sufficient length of time to accomplish his reformation, and that said convict may be temporarily released without danger to society, it shall be his duty to recommend his case to the board of charities and corrections for investigation. On the receipt of such recommendation, it shall be the duty of said board to examine all of the records heretofore provided for, as to the life of said convict, and if satisfied that the said convict merits a parole, said board of charities and corrections shall join with the warden of the penitentiary in a recommendation to the governor to grant a parole or temporary release of such convict.

§ 4. Governor May Parole] Whenever the governor shall have received such recommendation above provided for, and is satisfied that any convict has been confined in the penitentiary for a sufficient length of time to accomplish his reformation, and that such convict may be temporarily released without danger to society, and is satisfied that permanent and suitable employment has been secured for such convict in some county of the state where he will be free from criminal influences, the governor shall issue an order to the warden that such convict shall be temporarily released from the penitentiary and allowed to go to said county. Provided, that no convict shall be paroled until he shall have served one-half of the time for which he was sentenced, allowing time earned for good behavior.

§ 5. Clothing and Expenses] Upon the governor granting a parole to any convict the warden shall provide him with suitable clothing, if he is not already provided for, not exceeding fifteen dollars in value, as the warden may deem necessary and proper. The warden may also at his discretion furnish him with transportation to the county designated in the governor's order, and necessary traveling expenses, not exceeding ten dollars.

§ 6. Paroled Convicts] All convicts so temporarily released on parole shall at all times and until their final discharge be considered in the legal custody of the warden of the penitentiary, and shall during the said time remain under conviction for the crime for which they were convicted and sentenced, and subject at any time to be taken and returned to the penitentiary by the warden, and the governor may at any time issue his writ to the warden, and directed to the warden and all sheriffs, constables, coroners, police officers, or to any particular person named in said writ, commanding and authorizing them or any of them to arrest and deliver to the warden of the penitentiary the body of said convict, so as aforesaid conditionally released, named in such writ; and it is hereby made the duty of all sheriffs, constables, coroners, police officers or persons named or designated therein to execute said order or writ, the same as other criminal processes. In case any convict so conditionally released or paroled shall flee beyond the limits of this state he may be returned pursuant to the provisions of the law of the state relating to the

return of fugitives from justice. Any person paroled under the provisions of this act shall be returned to the actual custody of the warden of the penitentiary whenever such person shall exhibit himself or allow himself to be exhibited in any museum, circus, theater, opera house or any other place of public amusement or assembly, where a charge for admission is made. It shall be the duty of the warden immediately upon the return of such convict conditionally released, to enter all the facts connected with his return and the reasons therefor, upon the register relating to said convict.

§ 7. Must Report] Any convict so as aforesaid conditionally released shall, on the first day of each month, or oftener if required by the warden, communicate with the warden of the penitentiary by mail, giving him a statement of the occupation, location and condition of said prisoner, the name of his employer, and such other facts as the warden in his discretion may require, upon blanks to be furnished by the warden. Said convict shall at any time upon request of the warden, furnish the warden such other facts concerning himself as the warden may request. The warden may require the sheriff of the county wherein such prisoner is then staying to verify any of the reports of such convict, and it shall be the duty of the sheriff to furnish such information when so requested by the warden. It shall also be the duty of the sheriff to keep secret the fact that such person is a paroled convict, and in no case to divulge such fact to any person so long as said convict obeys the condition of his parole.

§ 8. Record] The warden shall keep records, files or copies of the inquiries addressed to the convict, the answers received, reports furnished by said convict or the sheriff, the location of such convict, and such other facts relating to him as he may ascertain.

§ 9. Restricting the Paroled] Such convict so as aforesaid conditionally released or paroled, shall abstain from the use of intoxicating liquors, and shall not frequent places where intoxicating liquors are sold or drank. He shall not engage in any form of gambling, or frequent places or company where or by whom gambling is done. He shall abstain from criminal, vicious, lewd or unworthy associations while so as aforesaid paroled. When the governor is satisfied by evidence satisfactory to him that said paroled convict is violating or has violated the provisions of this section, or has failed to report himself to the warden as herein required, or has failed to answer inquiries made by the warden, or whenever the governor shall be satisfied that for any reason the purposes or objects of this act are not being subserved by such parole, he shall issue an order revoking said parole, and shall issue his writ, which shall run to the warden, and to all sheriffs, constables, coroners, police officers, or any person therein named, which said writ shall order and direct that said paroled convict, naming him, shall be arrested and delivered to the warden of the penitentiary, to be by him received and kept

under the terms of the original judgment of conviction and commitment of said convict.

§ 10. Governor May Pardon] The governor in issuing his order of parole and conditional release to the warden may in his discretion fix the time of such parole, or may parole and conditionally release the convict until his further order therein, and whenever the governor shall be satisfied that the terms of said parole shall have been faithfully complied with by such convict and that the reformation of such convict is probable, and that he may be entrusted with his liberty without danger to society, then the governor shall have power to cause to be made and entered a full pardon and satisfaction of the conviction and commitment of the convict, which pardon shall be a full satisfaction of the said sentence of conviction, and upon receipt thereof it shall be the duty of the warden to enter the same of record and to immediately transmit such paroled convict a copy of such pardon and order of release. Provided, that nothing in this law shall be construed as repealing the laws of this state providing for a board of pardons, and defining the powers and duties thereof.

§ 11. Neglect—Penalty] Any public officer upon whom any duty is by the terms of this act imposed who shall willfully and negligently refuse or fail to perform such duty shall be liable to a fine of not exceeding \$100 in each case, to be recoverable as in other cases provided by law.

§ 12. Fees] Any officer who shall perform any duty under the terms and directions of this act in connection with the arrest, detention or return to the penitentiary of any paroled or conditionally released convict, shall receive the same fees now allowed by law for such service.

§ 13. Petitions Prohibited] That in considering a parole it shall be unlawful for the warden, deputy warden, the state board of charities and corrections or the governor to entertain any petition or hear any arguments from any attorney or other person in favor of a conditional release, parole or pardon of any convict, but said officials may, if they deem it proper, institute inquiries by correspondence or otherwise as to the previous history, character, crime committed, or trial of any convict under consideration.

§ 14. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved February 13, 1905.

PATENTS

CHAPTER 145

(H. B. 5)

RELATING TO LAND PATENTS

AN ACT to Amend Section 385, Article 1, Chapter 6 of the Revised Political Code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 385, Article 1, Chapter 6, of the Revised Political Code of 1903 be amended to read as follows:

Section 385. When full payment has been made for any tract sold, and not before, a patent for such tract, executed in the name of the state by the governor and attested by the commissioner of school and public lands, under the seal of his office, shall be made out and delivered by the commissioner of school and public lands to the auditor of the county in which the land is situated, for the party entitled thereto.

The granting clause of such patent shall read:

.....
original purchaser, or his legal representative.

The delivery of such patent to the auditor, as aforesaid, shall operate as a delivery to said purchaser, or his assigns, or in case of his death, to the parties entitled thereto.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

Approved February 4, 1905.

PHARMACY

CHAPTER 146

(H. B. 62)

RELATING TO PHARMACY

AN ACT Entitled an Act to Amend Section 2860 of the Revised Political Code of 1903, as Amended by Chapter 191 of the Laws Passed at the Eighth Session of the Legislature of the State of South Dakota, Session Laws 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section 2860 of the Revised Political Code of 1903, as amended by Chapter 191 of the laws passed at the eighth session of the legislature of the state of South Dakota, Session Laws 1903, be amended so as to read as follows:

Section 2860. It shall be lawful for any registered pharmacist owning and conducting a pharmacy, whose certificate of registration is in force, to sell spirituous or vinous liquors for medicinal, mechanical, scientific and sacramental purposes only, and it shall be unlawful for any registered pharmacist to sell or give away any intoxicating liquors whatever, to be used as a beverage or drank upon the premises or in a room or place adjoining the premises; and any registered pharmacist who shall sell any intoxicating liquors for the purposes mentioned in this section shall have a stock of drugs of the value of not less than six hundred dollars, exclusive of fixtures and intoxicating liquors. Any registered pharmacist who shall sell or in any manner dispose of said intoxicating liquors for any other purpose than authorized in this section, or allow intoxicating, brewed, or fermented liquors to be drank upon the premises, or in any room or place adjoining these premises, shall be, upon conviction thereof, fined not less than one hundred dollars, nor more than three hundred dollars, and for the second conviction shall be imprisoned in the county jail not less than ten nor more than thirty days, and shall forfeit his registration as a registered pharmacist and shall be liable to all the penalties, prosecutions and proceedings at law and in equity provided against persons selling without authority; and upon said conviction the clerk of the circuit court shall, within ten days after such judgment or order, transmit to the secretary of the board

of pharmacy the certified record thereof, upon receipt of which the said board of pharmacy shall at their first regular meeting thereafter strike the name of said druggist from the list of registered pharmacists and revoke his certificate of registration.

Provided, that no such pharmacist shall sell spirituous or vinous liquors for medicinal, mechanical, scientific or sacramental purposes, or either of them, within the limits of any precinct, town or city, wherein the question of granting permits to sell intoxicating liquors at retail has been submitted to the voters thereof at the last preceding general election, as provided in section 2856 of this code, and such question shall have been decided at said election against the granting of such permits for the sale of intoxicating liquors at retail, except upon a prescription of a regularly licensed resident physician of the county wherein such pharmacist conducts his business, and any pharmacist violating the provisions of this section in any such precinct, town or city, wherein the question of granting permits for the sale of intoxicating liquors at retail shall at the last preceding general election have been decided against, shall upon conviction of such offense be fined not to exceed \$100 or be imprisoned in the county jail not more than thirty days or be punished by both fine and imprisonment in the discretion of the court.

And provided further, that it shall be lawful for any person, co-partnership or corporation, in good faith engaged in the business of selling medicines, drugs or medicinal preparations at wholesale, to sell spirituous or vinous liquors to persons lawfully conducting a drug house or to any registered pharmacist owning and conducting a pharmacy and whose certificate of registration is in force. Provided, also, further, that said wholesale drug house shall have a stock of medicines, drugs, medicinal preparations, to the amount of not less than twenty thousand dollars, exclusive of liquors and fixtures.

And it shall be unlawful for any person, co-partnership or corporation engaged in the business of selling medicines, drugs or medicinal preparations at wholesale, or any partner, stockholder, agent, salesman or employe of the same, as such, to sell any intoxicating liquors to any person or persons other than those authorized in this section, or to sell or offer for sale or give away any intoxicating liquors whatsoever to be used as a beverage, or to be drank upon the premises, or in any room or place adjoining the premises. Any person who shall as such wholesale druggist, or a partner, stockholder, agent, salesman or employe of any person, co-partnership or corporation engaged in the business of selling medicines, drugs, or medicinal preparations at wholesale, sell or offer for sale any intoxicating liquors, to any person or persons other than persons lawfully conducting a drug house or lawfully selling medicines, drugs or medicinal preparations, or to a registered pharmacist owning and conducting a pharmacy, and whose certificate of registration is in force,

or sell or offer for sale, or give away any intoxicating liquors to be used as a beverage, or to be drank upon the premises, or in any room or place adjoining the premises, shall be, upon conviction thereof, fined not less than one hundred dollars or more than three hundred dollars, and for the second conviction shall be imprisoned in the county jail not less than ten or more than thirty days, and shall in all cases be liable to all the penalties, prosecutions and proceedings at law and in equity, provided against persons selling without authority.

§ 2. Repeal] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 24, 1905.

PEDDLERS

CHAPTER 147

(H. B. 157)

RELATING TO PEDDLERS, TRANSIENT MERCHANTS, TRADERS OR DEALERS

AN ACT Entitled an Act to Amend Section 7 of Chapter 190 of the Session Laws of the State of South Dakota for the Year 1903, Relating to Peddlers, Transient Merchants, Traders or Dealers, and Prescribing Penalty for Failure to Procure a License as Such Peddler, Transient Merchant, Trader or Dealer.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 7 of Chapter 190 of the Session Laws of the state of South Dakota for 1903 be and the same is hereby amended so as to read as follows:

Section 7. Any person who shall be found dealing as a peddler, or as a transient merchant, trader or dealer, within the meaning of section one of this chapter, without having paid and received the license herein specified, or who shall upon demand of any sheriff, constable or any householder of the county refuse to produce his license and permit the same to be read, shall be deemed guilty of a

misdeemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. Whereas, an emergency exists and is hereby declared to exist, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1905.

PUBLIC EXAMINER

CHAPTER 148

(S. B. 111)

RELATING TO THE PUBLIC EXAMINER

AN ACT Entitled an Act to Amend Section 118 of the Political Code, Revised Statutes of 1903, Relating to the Compensation of Public Examiner.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 118 of the Political Code of the Revised Statutes of 1903 be and the same is hereby amended so as to read as follows:

Section 118. The public examiner shall receive an annual salary of eighteen hundred dollars (\$1,800) and the necessary incidental expenses pertaining to his office, which sums shall be payable by the state treasurer in the same manner as the salaries and expenses of other state officers; and if the said examiner shall directly or indirectly receive any compensation or pay for services or extra service or neglect of service other than as provided for in this act, he shall be deemed guilty of a felony, and on conviction thereof shall be subject to a fine not exceeding ten thousand dollars (\$10,000) or imprisonment not exceeding ten (10) years, or both, in the discretion of the court.

§ 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 8, 1905.

RECORD OF INSTRUMENTS

CHAPTER 149

(H. B. 25)

RELATING TO RECORD OF INSTRUMENTS

AN ACT Entitled an Act to Amend Section 961 of the Revised Civil Code of 1903, Relating to the Record of Instruments Affecting Real Property, and Providing for the Admission of the Record Thereof in Evidence.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Section 961 of the Revised Civil Code of 1903 shall be amended so as to read as follows:

Section 961. Any instrument or judgment affecting the title to or possession of real property may be recorded as by law provided. Judgments affecting the title to or possession of real property authenticated by the certificate of the clerk of the court in which such judgments were rendered may be recorded without acknowledgment or further proof. Letters patent from the United States and final receivers' receipts from United States land offices, patents issued by the state of South Dakota, and contracts for the sale of lands of the state of South Dakota, may be recorded without acknowledgment or further proof. Copies of such letters patent, duly certified by the commissioner of the general land office, copies of such patents and contracts of sale of the state of South Dakota, duly certified by the commissioner of school and public lands, may be recorded without acknowledgment or further proof. Copies of the record of such letters patent, receivers' receipts, patents and contracts of sale of the state of South Dakota, and of the record of such duly certified copies of such letters patent, patents and contracts of sale of real property, shall, when duly certified by the custodian of such records, be admissible in evidence without further proof.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. Whereas, an emergency is hereby declared to exist, this act shall take effect and be in force from and after its passage and approval.

Approved February 11, 1905.

REFORM SCHOOL

CHAPTER 150

(S. B. 117)

RELATING TO TERM OF COMMITMENT TO THE REFORM SCHOOL.

AN ACT Entitled an Act to Amend Section 716 of Chapter 3, Title 12 of the Revised Code of Criminal Procedure of 1903, Relating to Term of Commitment to the Reform School.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section 716 of Chapter 3, Title 12, of the Revised Code of Criminal Procedure of 1903, be and the same is hereby amended so as to read as follows:

Section 716. No boy or girl shall be committed to said reform school for a longer term than till he or she obtain the age of majority, but the said board by their order may at any time discharge a boy or girl from said school as a reward of good conduct in the school, and upon satisfactory evidence of reformation.

§ 2. An emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 8, 1905.

ROBBERY

CHAPTER 151

(H. B. 90)

RELATING TO PUNISHMENT FOR ROBBERY IN THE FIRST DEGREE

AN ACT Entitled an Act to Amend Section 294 of the Revised Penal Code of the State of South Dakota, Relating to Punishment for Robbery in the First Degree.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section 294 of the Revised Penal Code of the state of South Dakota be and is hereby amended so as to read as follows:

Section 294. Every person guilty of robbery in the first degree is punishable by imprisonment in the state prison not less than one year nor more than twenty years.

§ 2. Repeal] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. Emergency] Whereas, an emergency exists and is hereby declared to exist, this act shall take effect and be in force from and after its passage and approval.

Approved February 28, 1905.

SALARIES

CHAPTER 152

(H. B. 206)

REGULATING SALARIES OF REGISTERS OF DEEDS AND COUNTY AUDITORS

AN ACT Amending Chapter 207 of the Session Laws of 1903, Entitled "An Act to Amend Section 894 of the Revised Political Code of 1903, Regulating Salaries of Registers of Deeds and County Auditors of the Several Counties."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 1 of Chapter 207 of the Session Laws of 1903 be and the same is hereby amended to read as follows:

Section 1. The salaries of registers of deeds and county auditors shall be regulated by the value of the property in their respective counties, as fixed by the state board of equalization for the preceding year, as follows: They shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars; one mill on each dollar of all sums in excess of such last named sum and less than five hundred thousand dollars; one-quarter of one mill on each dollar of all amounts in excess of said last named sum and less than one million five hundred thousand dollars; and one-twenty-fifth of one mill on each dollar of all amounts in excess of said last named sum. Provided, that in counties having a population not exceeding fifteen hundred or less the salaries of registers of deeds and county auditors shall be six hundred dollars per annum, and such salary shall not in any county exceed one thousand two hundred dollars. Provided, further, that in counties having a population of twelve thousand or over the board of county commissioners may, in their discretion, allow a salary not exceeding fifteen hundred dollars per annum to the county auditor only, which salary shall be paid quarterly by warrants on the special salary fund, or on the county general fund. Provided, further, that in counties having a population of thirty thousand or over the board of county commissioners may, in their discretion, allow a salary not exceeding fifteen hundred dollars per annum to the register of deeds, which salary shall be paid quarterly by warrants on the special salary fund or on the county general fund.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. Whereas, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1905

SEWERAGE

CHAPTER 153

(S. B. 66)

RELATING TO SEWERAGE

AN ACT Entitled an Act Providing for Special Assessment of Real Property Benefited by the Construction of Sewers Within Any City of This State, Which Has Issued or May Hereafter Issue Sewer Bonds for the Construction of a System of Sewerage Within Such City, and to Repeal Sections 1346, 1347, 1348, 1349, 1350 and 1351 of the Revised Political Code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That for the purpose of providing funds for the prompt payment of interest and principal of sewer bonds issued by any city of this state, the city council shall personally inspect any and all lots, parts of lots and parcels of land fronting or abutting on the work contracted for, or on sewers already constructed, or within three hundred and fifty feet of any part thereof, and thereupon assess against all such lots, parts of lots, and parcels of land, which will in the opinion of such council be especially benefited by the construction of such system of sewerage, or by the sewers already constructed, a special assessment of such benefits, not exceeding in any case one hundred dollars for any one lot or a proportionate amount for any lesser tract of land.

Whenever such assessment is made and computed as to all the lots, parts of lots or parcels of land benefited by the work under any contract, or by any sewers already constructed, the said council shall make or cause to be made a complete list thereof, setting forth the several tracts of land so assessed, the names of the owners or owner thereof, and the amount assessed against each parcel of land, and cause the same to be published once a week for two consecutive weeks in the official newspaper, together with a notice of the time and

place when and where such council will meet to hear objection to such assessments.

At the time and place mentioned in such notice the said council shall meet and hear any and all objections which may be made to any such assessment, which objections must be in writing, and verified in the same manner as pleadings in a civil action, and filed with the city auditor at or before the time of the meeting of said council as stated in said notice. Objections to said assessment may be made by the owner or owners of the parcel of land so assessed or by his or their agents or attorneys.

The council, after hearing said objections, may alter, modify or affirm said assessment in such manner as it may deem just; and after all objections to said assessment shall be heard and decided the council shall then deposit said assessment list, after the same has been affirmed by it, with the city auditor, who shall file the same and certify to its correctness.

The city auditor shall annually, at the time he shall certify to the county auditor of the county in which such city is located, the amount of city taxes to be levied for the current year, also certify to such county auditor a list of all lots, parts of lots or parcels of land assessed for sewerage purposes under the provisions of this act, together with the amount to be collected for the current year, which amount shall be one-twentieth of the whole assessment as confirmed by the council.

The county auditor of such county shall extend the sum so certified against each lot, part of lot or parcel of land, upon the tax roll for the current year, and it shall be collected in the same manner as other city taxes.

§ 2. The city council, upon meeting at the time and place specified in said published notice, may adjourn from day to day, and over Sunday or legal holidays, but not otherwise, until the work of the revision of such assessment list is completed.

The mayor of such city shall have power to administer oaths to all witnesses in relation to the objections under consideration. He may issue subpoenas for the attendance of witnesses before said council to testify in relation to the matters then pending before said council in reference to said assessment on behalf of either the objector or the city.

That if any person shall feel aggrieved by the decision of such council, upon the objections to the assessment against his property on account of the construction of sewers, he may within ten days from the entry of such decision on the records of said city take an appeal to the circuit court in and for the county in which such city is located.

Said appeal shall not be effectual for any purpose unless the party taking such appeal shall within said ten days serve a notice

of appeal on the city auditor, and at the same time serve upon said city auditor an undertaking in the sum of one hundred dollars, with two good and sufficient sureties, to be approved by said city auditor, conditioned that the appellant will pay all the costs of such appeal, and comply with all the orders of the court made on such appeal.

Said appeal shall be heard as other civil cases are tried in said court. Provided, however, that the taking of said appeal shall not in any manner stay the construction of said sewers, or stay the city auditor from certifying said assessment list to the county auditor as in this act provided; and, provided further, that no lot or parcel of land shall be specially assessed more than once for sewerage purposes under the provisions of this act.

§ 3. The amount certified by the city auditor to the county auditor as provided in this act shall be perpetual lien upon the land against which the same is certified from and after the first day of December after the same is so certified to such county auditor.

The lot, part of lot or parcel of land against which a special assessment for sewer purposes has been certified, as provided in this act, may be sold for the non-payment of the sum so certified against it in the same manner as now provided by law for the sale by the county treasurer of lands for non-payment of taxes, and if the owner of said lot, part of lot or parcel of land so sold shall fail to redeem the same from such sale within the time provided by law for redemption of land from treasurer's tax sale, then the county treasurer of such county is authorized to make the purchaser a deed for said [land] so sold in the manner now provided by law for the issuance of tax deeds by the county treasurer for lands sold for the non-payment of taxes. Any person or corporation purchasing any real estate for non-payment of any special assessment, or any part thereof, certified by the city auditor under the provisions of this act, shall after the lapse of three years from the recording of the county treasurer's deed therefor acquire a complete title in fee simple to the land described in said deed; and thereafter all persons shall be barred from commencing or sustaining any action in any court of this state to recover possession of the same.

§ 4. The proceeds of such special assessment when paid over to the city treasurer shall be credited to the sewer bond fund, and kept by the city treasurer separate and apart from all other funds, and shall be applied to no other purpose whatever than the payment of the interest upon sewer bonds issued by such city and the payment of the principal thereof, when due. Provided, however, that whenever there shall be one thousand dollars or more in such fund over and above the interest for the current year on such bonds, the city council may by a two-thirds vote thereof authorize the investment of such amount in excess of that required to pay interest on said bonds for the current year, in such security or securities as will in

the opinion of the city council be safe and readily convertible into cash, and as will secure to said city on the amount so invested interest at the rate of not less than four per cent per annum; or by like vote may be authorized the negotiation and redemption before due of any such outstanding bonds, on such terms as will in the opinion of the city council best subserve the interests of the city.

§ 5. If by or under the direction of the city there has been, before or after the passage of this act, constructed any sewer or part of sewer in any district or part of district within said city, or the city has become the owner of any private sewer already constructed, then the cost of the same may be included in such assessment and the lot and part of lots and parcels of land benefited by said sewers may be assessed for the same in the same manner and with like force and effect as though said sewers or part of sewers had been constructed under the provisions of sections 1341, 1342, 1343 and 1344 of Article 19 of the Political Code of 1903.

§ 6. The city council shall by ordinance prescribe the regulations under which sewers and drains from private property may be connected with the sewers constructed under this act, or with the sewers already constructed.

When the city shall order the paving or macadamizing of any street in which a sewer shall have been previously laid or constructed, they may also order the property owners along the line of said street to lay house drains or sewers from the main sewer in such street to the curb line on either side of the street opposite each lot or part of lot along such street. Notice of such order shall be given to the owners adjoining such street by publication thereof for six days in the official newspaper of the city, requiring said owners to do such work opposite their respective lots or parcels of land, according to the plans and specifications to be prepared and placed in the office of the city auditor, showing location, size and kind and quality of material of such lateral sewers or drains; and if such owners shall refuse or neglect to do the same within ten days after the publication of such notice, the city council may order the same to be done by contract or otherwise, and charge and assess the expense thereof to the lots, parts of lots or parcels of land fronting such work, and the city auditor shall certify the expense thereof in one item to the county auditor of such county, to be collected in the manner provided in this act, and such amount so certified shall be a lien, as provided in this act, upon the lot, part of lot or parcel of land against which the same is so certified. Provided, that no street shall be paved or repaved by order of the city council unless the necessary sewers and their connections shall, as required by the city council, be first laid and constructed in that portion of the street so to be paved or repaired.

§ 7. The word owner as used in this act shall be construed to

mean the person or corporation named as grantee in the latest deed of conveyance of said lots, part of lot or parcel of land, recorded in the office of the register of deeds of the county in which such city is located, or his or their heirs, or the successors of such corporations.

§ 8. Sections 1346, 1347, 1348, 1349, 1350 and 1351 of Article 19 of the Political Code of 1903 are hereby repealed.

§ 9. There being no adequate law provided for the assessment of property benefited by the construction of sewers in cities issuing bonds for the construction of a system of sewerage for such city, therefore an emergency is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved March 10, 1905.

CHAPTER 154

(H. B. 140)

RELATING TO SEWERAGE

AN ACT Entitled an Act to Authorize Cities to Purchase and Acquire by Condemnation Private Property Within or Without the Corporate Limits Thereof, for the Purpose of Establishing, Constructing, Maintaining and Operating a Sewer System for the Use of Cities and Their Inhabitants.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That the cities of the state be, and they and each thereof, are hereby empowered to purchase, appropriate, damage, take and condemn any property of any person or corporation, either within or without the corporate limits of the city, for the purpose of establishing, constructing, equipping, extending, maintaining and operating a sewer system for such cities and their inhabitants.

§ 2. That the cities of this state be authorized to acquire, by purchase or condemnation, sites for reservoirs, filtering and storage tanks, or for any other purpose necessary to furnish drainage or outlet for the system of sewerage adopted by the city council, and to acquire by purchase or condemnation rights of way for sewer pipes for such system of sewerage and for the maintenance and operation of the same, including the maintenance of reservoirs, filtering, septic and storage tanks, or such other means or devices as shall by the city council be deemed necessary for the proper maintenance and operation of the system of sewerage by them adopted. Provided, that the waters of any stream shall not be so condemned, appropriated, diverted or used by any city or its inhabitants unless the corporate limits of said city are within the water-shed of the

stream from which said waters are to be so condemned, appropriated, diverted or used.

§ 3. Whenever any city council shall deem it necessary to appropriate or damage any private property, either within or without the corporate limits of the city, for the purpose of establishing, constructing, equipping, extending, maintaining and operating a sewer system for the use of the city and its inhabitants as aforesaid, the said council shall, by a resolution passed by two-thirds majority of all the members elect, declare such appropriation necessary to be made, stating the purpose of and the extent of such appropriation, and thereupon the proceedings for such appropriation and condemnation shall be had, as provided for by Chapter 40 of the Revised Political Code of Civil Procedure of 1903.

§ 4. All acts or parts of acts in conflict with the provisions hereof are hereby repealed.

Approved March 7, 1905.

CHAPTER 155

(S. B. 65)

RELATING TO SEWERAGE

AN ACT Entitled an Act Authorizing and Empowering Cities of This State to Issue Its Bonds for the Purpose of Constructing and Maintaining a System of Sewerage Therein, and to Pay for Systems of Sewerage Heretofore Constructed.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. There is hereby granted to any city in this state the right and power to issue bonds for the purpose of constructing and maintaining a system of sewerage and to pay for the construction of any system of sewerage heretofore constructed in whole or in part, within such city; provided, that no city shall be authorized to issue bonds, or to incur any indebtedness, or liability of any kind for any such purpose in excess of ten per centum upon the assessed value of the taxable property of such city, according to the last preceding assessment before the issuance of such bonds.

§ 2. The city council of any city of this state may, by resolution, passed by a majority of the aldermen elect at any regular meeting of such city, or at a special meeting called for that purpose, submit the question of the issuance of such bonds to the electors thereof, at any

regular election held in such city, or at a special election called for that purpose, to be called and advertised as now provided [by] law for special elections in such cities. Such resolutions shall set forth: The amount of bonds to be issued; the maximum rate of interest they shall bear; the length of time they shall run; the purpose for which they are to be issued.

The ballots to be voted at the election so held shall read as follows: "In favor of the proposition of issuing bonds to the extent of..... dollars, for the purpose of constructing and maintaining a system of sewerage for the city of....."

"Against the proposition of issuing bonds to the extent of..... dollars, for the purpose of constructing and maintaining a system of sewerage for the city of....."

Such election shall be conducted, and the votes cast thereat shall be counted, returned and canvassed, in the same manner as now provided by law for election in such cities.

If a majority of the electors voting at such election shall cast their vote in favor of the issuance of such bonds the city shall, through its proper officers, without further act, be authorized to issue such bonds to the amount voted, and to sell and negotiate the same.

§ 3. All bonds authorized by section one shall run not more than twenty years from their issuance and shall bear interest at not to exceed five per cent per annum, payable annually or semi-annually, as the city council may provide, and principal and interest shall be payable at such place as may be fixed by the city council; such bonds shall be signed by the mayor, attested by the city auditor, and sealed with the seal of such city; and shall be sold at not less than the par value with accrued interest, to the highest bidder, after notice of such sale has been published once in each week for three successive weeks in a daily newspaper, if there be one published in such city, and if not, then in a weekly newspaper published in the city where such bonds shall be issued, and in such other newspapers and places as the city council may deem advisable.

§ 4. There shall be levied each year upon the taxable property of the city issuing such bonds a sum sufficient to pay the interest upon the bonds so issued, and also the principal thereof, when the same becomes due. The taxes so levied, when collected, shall be covered into a fund to be known as the sewer bond fund, and shall not be used for any other purpose than to pay the interest on said sewer bonds, and the principal thereof when the same becomes due.

§ 5. All acts and parts of acts in conflict herewith are hereby repealed.

§ 6. Whereas, there is now no sufficient law empowering cities to issue bonds for the construction of a system of sewerage within such cities, an emergency is hereby declared to exist, there-

fore this act shall take effect and be in force from and after its passage and approval.

Approved March 5, 1905.

SINKING FUNDS

CHAPTER 156

(S. B. 56)

RELATING TO LOANING OF COUNTY SINKING FUNDS

AN ACT to Provide for the Loaning of the Sinking Funds of Counties in the State of South Dakota, and Designating the Kinds of Securities in Which Said Funds May Be Invested, and the Manner of Making Said Loans or Investments.

Be it Enacted by the Legislature of the State of South-Dakota:

§ 1. Authorized to Loan] That the counties of the state of South Dakota that are creating sinking funds for the payment of any bonded indebtedness are hereby empowered and authorized to loan or invest said sinking funds or any part thereof, in the manner and in the kind or kinds of securities hereinafter stated or specified.

§ 2. Duties of County Commissioners] That whenever any county shall desire to loan or invest any sinking fund or any part thereof, the board of county commissioners of said county shall pass a resolution declaring that it is for the best interests of said county, that the sinking fund or a part thereof shall be invested or loaned, also stating the kind or kinds of securities in which such fund or part thereof shall be so loaned or invested, and if said resolution receives a majority vote of the said board of county commissioners, then the county treasurer of said county shall be instructed by the said board of county commissioners to invest said sinking fund or part thereof in the kind or kinds of securities determined upon by the said board of county commissioners.

§ 3. Securities Designated] That all sinking funds or parts thereof that the board of county commissioners of any county shall so determine to invest or loan, shall be invested or loaned only in

the following securities: United States bonds, state bonds of the state of South Dakota, municipal, school and county bonds of municipalities and counties of South Dakota and in such banks of the state of South Dakota as the said board of county commissioners shall designate.

Provided, that in all cases where any money is loaned or invested in the manner provided in this act, that said loan or investment shall in no case be for a longer period than sixty days prior to the time of the maturity of the indebtedness for which said sinking fund was created.

Provided, further, that in all cases where said sinking fund or any part thereof shall be loaned to banks, that the bank or banks so receiving said loan shall give to the said county a good and sufficient undertaking, to be approved by the board of county commissioners of the county making said loan, in double the amount of said loan, conditioned for the payment of said loan to said county at its maturity, together with all unpaid interest and costs of enforcing the terms of said undertaking.

§ 4. All interest accruing to or derived from any loans made under the provisions of this act shall when collected be paid into the proper sinking fund from which said loan was made.

§ 5. Emergency Declared] Whereas, there is no law in force in the state of South Dakota providing for the loaning or investment of the sinking funds of counties, therefore an emergency exists, and this act shall be in force from and after its passage and approval.

Approved March 6, 1905.

SOLDIERS' HOME

CHAPTER 157

(H. B. 4)

RELATING TO GOVERNMENT OF SOLDIERS' HOME

AN ACT Entitled an Act Relating to the Soldiers' Home, Prescribing Rules and Regulations for Its Government, Prescribing the Qualifications of Applicants for Admission Thereto; Prescribing the Qualifications of and Providing for the Appointment of a Board of Commissioners and Commandant Thereof, Prescribing Their Duties and Fixing Their Compensation; Prescribing the Qualifications of and Providing for the Appointment of Subordinate Officers and Employes, and to Repeal Chapter 10 of the Revised Political Code of the State of South Dakota, and Chapter 214 of the Session Laws of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. The soldiers' home, as heretofore located and established at Hot Springs, in the county of Fall River, shall continue as such at said place. The object of the soldiers' home shall be to provide a home and subsistence for all honorably discharged soldiers, sailors and marines who served in the army or navy of the United States, in the late war of the rebellion, the Mexican war, the Spanish American war, or the war in the Philippine Islands, and who are disabled by disease, wounds, old age or otherwise, and who have no adequate means of support, and who by reason of such disability are incapable of earning their living. Provided, that all such persons admitted to said home shall be admitted subject to the rules and regulations prescribed and adopted by the board of commissioners of the soldiers' home governing the admission of applicants to said home, and prescribing such conditions, rules and penalties as such board may deem necessary for the management and government of said home.

§ 2. No applicant shall be admitted to said home who has not been a resident of this state for at least one year immediately preceding his application for admission therein, unless he served in a South Dakota regiment or was accredited to this state. The eligibility of applicants for admission shall be prescribed and determined by the board of commissioners.

§ 3. The general supervision and government of said soldiers'

home shall be vested in a board of five commissioners who shall be appointed by the governor with the consent of the senate. No two of said commissioners shall be from the same county; but all shall be ex-union soldiers, sailors or marines. The terms of office of said commissioners shall be for the term of six years from the first day of April next after their appointment, and until their successors are appointed and qualified. Appointments for any expiring term of any member or members of the board shall be made during the session of the legislature next preceding such expiration. In case of a vacancy in said board by death or otherwise, the governor shall immediately fill the vacancy of the unexpired portion of the term. Provided, that nothing contained in this act shall in any way affect the term or tenure of office of any member of the present board of commissioners heretofore appointed under the laws now in force, but all appointments of such commissioners after the taking effect of this act shall be made in accordance with the provisions hereof.

§ 4. It shall be the duty of the board of commissioners to meet annually the first Tuesday in June of each year, and at such annual meetings they shall elect from their own body a president and secretary, who shall hold their term of offices for one year or until their successors shall be elected and qualified. The board of commissioners shall have four regular meetings in each year, and not to exceed two special meetings except in cases of emergency to be determined by the board. The board shall have power to adopt a seal, and to make rules and regulations, not inconsistent with the laws and constitution of this state or of the United States, prescribing eligibility to membership in said home, and for the government of the members of said home, fixing the terms and conditions of admission to said home and prescribing the causes and manner of expulsion therefrom, including such rules as they shall deem necessary for the preservation of order, enforcing discipline, and preserving the health of its members, and specifying the duties of its officers.

§ 5. The board of commissioners shall have the power, and it is hereby directed, to make and enforce such rules and regulations as shall now or may hereafter be required by the statutes of the United States in order that the said state of South Dakota may and shall be entitled to receive from the United States the aid extended or usually extended by the government of the United States to any state or territory maintaining state or territorial soldiers' homes.

§ 6. The board of commissioners shall have power, and it shall be their duty, to appoint a commandant for said soldiers' home, who shall serve during the pleasure of said board, and who shall be one who was honorably discharged from the military or naval service of the United States, and who served in the war of the rebellion of 1861-5, whose salary shall not exceed one thousand dol-

lars per annum, to be fixed by the board of commissioners. The commandant shall give a good and sufficient bond to the state of South Dakota to secure the faithful discharge of his duties, and to secure the members of the home against the loss of any money belonging to any of said members, which they may have placed upon deposit with such commandant for safe keeping, which bond shall be in double the amount of money to come into his hands at any one time, to be fixed by the board of commissioners, and to be approved by them and filed in the office of the secretary of state. Said commandant shall nominate, subject to the approval of the said board, all necessary subordinate officers and employees, who, as far as practicable, shall be persons honorably discharged from the service of the United States, either as soldiers, sailors or marines, or the wives or widows of such soldiers, sailors or marines. All appointees provided in this section shall be subject to removal by the commandant for inefficiency or misconduct, but the commandant must take a detailed statement of the cause of such removal to the board of commissioners, who shall have power, in their discretion, to reinstate such persons. The compensation of all subordinate officers and employees shall be fixed by the board of commissioners.

§ 7. Before entering upon the duties of their office, each member of the board of commissioners shall take and subscribe to the following oath: I do solemnly swear that I will support the constitution of the United States and the constitution of the state of South Dakota, and will faithfully discharge the duties of commissioner of the South Dakota Soldiers' Home to the best of my ability, so help me God.

Every contract and duty to be performed by said commissioners must receive the approval of the majority of the board, in regular or special meeting of said board, in order to make it valid and binding. All proceedings of said board shall be recorded in a book kept for that purpose, which book shall be open to the inspection of any and all persons on request.

The board of commissioners shall make full and minute report of the disbursements of the home and its condition, financially and otherwise, to the governor for the use of the legislature, at each of its regular sessions.

§ 8. The compensation of the commissioners shall be three dollars per diem and their necessary traveling and other expenses for the time actually employed, away from their homes, in attending meetings of the board and for time actually employed in the transaction of business of the soldiers' home. Provided, that no commissioner shall receive more than one hundred and eighty dollars as per diem during any one year.

§ 9. All moneys received from the United States for the sol-

iers' home aid shall be placed by the state treasurer to the credit of the general fund of the state.

§ 10. That Chapter 214 of the Session Laws of 1903, and Chapter ten (10) of the Revised Political Code of the state of South Dakota and all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 11. Whereas, an emergency exists and is hereby declared to exist, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1905.

SCHOOL AND PUBLIC LANDS

CHAPTER 158

(H. B. 124)

RELATING TO APPORTIONMENT OF SCHOOL FUNDS

AN ACT Entitled an Act Amending Section 396 of the Revised Political Code of South Dakota, Relating to the Apportionment of Funds Derived from the Lease of School Lands; the Lease of Public Lands not Apportioned to any Educational, Penal or Charitable Institution; the Accrued Interest on Invested Funds Derived from the Sale of School and Public Lands not Apportioned to any Educational, Penal or Charitable Institution, and the Accrued Interest on Invested Funds Derived from the Five Per Centum Paid by the United States on Sale of Public Lands Within This State.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 396 of the Revised Political Code of South Dakota be, and hereby is, amended to read as follows:

Section 396. The commissioner of school and public lands shall then proceed to apportion the several funds as follows: He shall ascertain from the superintendents of schools of the several counties of the state the total number of children of school age in their respective counties, as ascertained by the last school census enumeration returned by the several school clerks of his county, and on the basis of the school population of the several counties so ascertained he shall

apportion to each the pro rata such share as their population entitles them to of the funds derived from the lease of school lands, the lease of public lands not apportioned to any educational, penal or charitable institution, the accrued interest on invested funds derived from the sale of school lands and public lands not apportioned to any educational, penal or charitable institution, and the accrued interest on invested funds derived from the five per centum paid by the United States on sale of public lands within the state. An itemized statement of the apportionment when made as herein provided shall be delivered by the commissioner of school and public lands to the state auditor, who shall thereupon draw his warrant on the state treasurer for the amounts designated on the statement so furnished and transmit the same to the treasurers of the several counties of the state, to be by them converted into the general tuition fund and distributed among the separate school corporations as provided by law. Provided, that in determining the number of children of school age within any county, for the purpose of such apportionment, any and all children or pupils receiving any portion of their instruction or education in any model school or schools, attached to any state normal school, or in any school of this state, supported in whole or in part by the state of South Dakota, in which such children pursue any study or studies comprised within the common school curriculum of this state, shall be excluded from such census enumeration; and the county superintendent shall certify under oath in his census report to the commissioner of school and public lands that no children or pupils receiving any of their instruction or education as aforesaid are included in said census report. Provided, further, that in making the return to the county superintendent of the enumeration of children of school age, the several district clerks and clerks of boards of education shall under oath certify that they have not included any children in such enumeration that are excluded by this act.

It shall be the duty of the secretary of any state institution where any children are attending any such model school or such other state school and pursuing any common school studies as aforesaid, to certify on or before the first Monday in June of each year the names of all said children attending such model school, or such other school, and pursuing common school studies, during the current school year, to the county superintendent of the counties where such students reside.

Approved March 7, 1905

CHAPTER 159

(H. B. 38)

RELATING TO PAYMENT OF COURT COSTS IN CERTAIN CASES

AN ACT Entitled an Act Providing for the Payment of Court Costs in Actions Brought for the Collection of Rentals and Damages on Public Lands and for Trespass Thereon.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Court Costs] In all actions wherein the state of South Dakota is plaintiff, brought for the collection of rentals, damages, or to compel a former lessee to remove any fences, buildings or other improvements by him placed thereon, or for trespass upon any of the public lands of this state, by direction of the commissioner of school and public lands, in any court of competent jurisdiction, the costs of such action shall be taxed against the defendant whenever the court finds for the state, and any moneys so collected or fines imposed for trespass upon such state public lands shall be paid into the county treasury and credited to the interest and income fund of the class to which such lands belong; that in all of the above named actions wherein the court finds for the defendant or the action is dismissed the costs shall be paid by the state by a warrant issued by the state auditor upon the filing with the commissioner of school and public lands by the state's attorney a duly certified itemized statement of the accrued fees and costs, which bill of costs on approval by the commissioner of school and public lands shall by him be transmitted to the state auditor, who shall issue warrants for the amount therein stated to and in the name of the person entitled thereto or his attorney of record, and transmit the same to the state's attorney, who shall disburse the same to the persons entitled thereto or to his attorney of record; and the state treasurer is hereby authorized to pay the same.

§ 2. Appropriations] There is hereby appropriated out of any moneys in the general fund of the state of South Dakota, not otherwise appropriated, the sum of one thousand dollars (\$1,000), or so much thereof as may be necessary to pay the costs or expense of any action in which payments of costs or expenses may be deemed by court as herein provided.

Approved February 24, 1905.

CHAPTER 160

(S. B. 5)

RELATING TO SCHOOL LANDS

AN ACT to Amend Section 369, Article 1, Chapter 6, of the Revised Political Code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 369, Article 1, Chapter 6 of the Revised Political Code of 1903 be amended to read as follows:

Whenever any lessee shall fail to pay the annual rental for any lands leased when the same becomes due, it shall be optional with the commissioner of school and public lands to bring suit against such lessee in any court of competent jurisdiction in the county in which the land is situated for the recovery of such rental, damages and costs by such failure, or to declare such lease forfeited and proceed to offer such lands for lease to other parties, but in no case shall a bid be received therefor from the party in default. In case the commissioner of school and public lands considers it to the interest of the state to commence suit against any lessee in default, it is hereby made the duty of the state's attorney of such county to commence and prosecute such suit whenever he is directed to do so by said commissioner.

All moneys arising from such suits shall be paid into the county treasury of the proper county and be placed to the credit of the interest and income fund of the class to which such lands belong.

In case the commissioner of school and public lands shall declare any lease forfeited on account of non-payment of the rental, he shall promptly notify the state's attorney of the county in which the land is situated to take such action as may be necessary to compel the lessee to remove from said lands all fences, buildings and well apparatus placed thereon by him, within the time required by law, and to prevent the further use of the land by such lessee.

§ 2. No property, real or personal, except the homestead and other exemptions made absolute, shall be exempt from levy, seizure and sale by virtue of any final writ or process issued on a judgment for money owing on school land lease or for trespass on school lands.

§ 3. All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 4, 1905.

CHAPTER 161

(S. B. 7)

RELATING TO INVESTMENT OF PERMANENT SCHOOL FUNDS

AN ACT to Amend Section 402, Article 1, Chapter 6, Revised Political Code of 1903, and as Amended by Chapter 211 of the Session Laws of 1903, Relating to the Investment of Permanent School Funds.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 402, Article 1, Chapter 6, Revised Political Code of 1903, and as amended by Chapter 211 of the Session Laws of 1903, be and the same is hereby amended to read as follows:

Each county shall loan or invest, and keep invested, all the funds so received from the commissioner of school and public lands, as aforesaid, in bonds of school corporations, county, township and municipal bonds, or in first mortgages upon good, improved farm lands within their limits respectively. The amount of each loan shall not exceed one-third of the actual value of the lands covered by the mortgage given to secure the same, such value to be determined by the board of county commissioners of the county in which the land is situated, and in no case shall more than five thousand dollars (\$5,000) be loaned to any one person, firm or corporation. All of said bonds and loans shall draw interest at the rate of five per centum per annum, and shall be payable semi-annually on the first day of January and July. All mortgages shall be made in the name of the state as mortgagee.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. Whereas, an emergency is hereby declared to exist, this act shall be in force from and after its passage and approval.

Approved January 24, 1905.

SCHOOL BONDS

CHAPTER 162

(S. B. 22)

RELATING TO SCHOOL BONDS

AN ACT Entitled an Act to Amend Section 2386 of the Revised Political Code of 1903, Relating to School Bonds.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 2386 of the Revised Political Code be revised so as to read as follows:

Section 2386. The denomination of the bonds which may be issued under the provisions of this article shall be fifty dollars or some mutiple of fifty, not exceeding two hundred dollars, and shall bear interest at the rate of not exceeding seven per cent per annum, payable semi-annually in accordance with interest coupons which shall be attached to said bonds; and no greater amount than one thousand dollars can be issued for any one school house except in towns or villages of more than three hundred inhabitants, and in such districts the amount shall not exceed four per cent of its assessed valuation, and may be made payable in not less than three nor more than fifteen years from date, in annual, biennial, or triennial succession. Provided, that if two or more districts, now organized, consolidate for the purpose of establishing and maintaining a graded central school, the district so consolidated and reorganized may issue bonds not to exceed three thousand dollars for the purpose of building, furnishing and equipping a school house for such consolidated district. Provided, that the amount shall not exceed four per cent of the assessed valuation of said district. Provided, further, that for the purpose of this act the valuation fixed by the state board of equalization for the preceding year shall be the assessed valuation of such districts.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

Approved February 28, 1905.

STATE CAPITOL BUILDING

CHAPTER 163

(H. B. 142)

RELATING TO STATE CAPITOL

AN ACT Entitled an Act Relating to the Creation of a State Capitol Commission to Provide for the Erection of a Building for Capitol Purposes on Block Twenty-one (21), in the Fourth (4th) Railway Addition to the Town, Now City of Pierre, in the County of Hughes, State of South Dakota, and to Provide Funds for That Purpose.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That for the purpose of procuring the erection and completion of a building to be used for state capitol purposes by the state of South Dakota on block twenty-one (21), in the Fourth (4th) Railway addition to the town, now city of Pierre, in the county of Hughes, state of South Dakota, known as the capitol grounds, there is hereby created a board to be known as the state capitol commission. Said board shall consist of four members, to be composed of the governor, secretary of state, state auditor and commissioner of school and public lands, who shall serve as members of said board without compensation. The governor shall be ex-officio chairman of said board. A majority of said board shall constitute a quorum. Said board shall procure the erection of a building on the above described premises, known as the capitol grounds, and complete same, which shall be adapted and designed for occupancy by the supreme court, and the judges and officers of said court, and for the proper disposition and placing therein of the supreme court library and the other libraries belonging to the state of South Dakota, and other valuable records and papers and property of said state. Said board shall have power to prepare the said grounds for said building, and in providing plans and specifications for the said building may also adopt plans and specifications for a complete capitol building, in order that the building to be erected by said board may be a symmetrical part of a completed capitol building. Said board is empowered to employ an architect and to do and perform any and all acts necessary to enable the said board to carry out the provisions of this act.

§ 2. In order to carry out the provisions of this act and for the

purpose of constructing said building, and to prepare the said grounds for the erection of the same, and to procure the said plans and specifications, the commissioner of school and public lands of the state of South Dakota is authorized and empowered and shall sell or dispose of sufficient of the lands granted to the state of South Dakota for the purpose of constructing buildings at the capital of this state, and may proceed to raise a sufficient sum in cash by the sale of such lands which, with the amount now in the treasury of the state of South Dakota already realized from the sale or rental of such lands, and which may hereafter be received by the state of South Dakota from such sales or rentals, until the sum so raised amounts to \$150,000, and that such part of said amount now in the treasury from the sale and rental of such lands, and such other and further sums of money which may be raised from sales and rentals hereafter of such lands, aggregating the total sum of \$150,000, is hereby declared to be and is made a fund in the state treasury known as the state capitol building fund, and that so much of said amount now in the treasury, raised from the sale or rental of such lands and to be raised by the sale and rental of lands hereafter as aforesaid, until said sum aggregate the sum of \$150,000, is hereby appropriated and placed to the use and disposal of the said capitol commission, to be used for the purposes hereinbefore provided for, if deemed advisable by the majority of the members of said capitol commission. Said lands prior to their sale shall be appraised in the manner now provided for by law for the appraisal of school lands. The board of school and public lands shall fix the minimum price of said lands at not less than \$10 per acre, which shall be the least amount per acre at which they may be sold, and shall determine the manner of sale and make rules and regulations for the sale of said lands by the commissioner of school and public lands. In case any of said lands are sold partly for cash and partly on time payments, the proceeds of the cash payments shall be covered into the said capitol building fund in the state treasury, and the cash proceeds on time payments, when due and collected, shall be covered into said capitol building fund in the state treasury. And it is hereby especially provided, that none of said time payments or evidences of the same shall be in any manner hypothecated, or pledged, sold or discounted in any manner by said state capitol commission for the purpose of raising cash for the said state capitol building fund. Said sum of \$150,000, or so much thereof as may have been raised, as herein provided, shall be available for use by said capitol commission for the purposes hereinbefore designated during the period between July 1, 1905, and June 30, 1907, in the discretion of said board. It is hereby declared to be the intent and purpose of this act that all moneys expended by said state capitol commission in the construction and erection of said building or in carrying out

any of the purposes provided for by this act, shall be raised as hereinafore provided and from the amount now in the treasury in such fund raised from the sale and rental of such lands, and shall not be taken from the general fund of the treasury, nor shall any moneys be expended by said state capitol commission until the same shall have been raised as hereinbefore provided and covered into said capitol building fund.

§ 3. Disbursements] All disbursements on account of said building, and expenses incidental thereto, shall be made pursuant to certificate by the board, signed by a majority of said board. All claims, bills and demands for labor performed, for all materials furnished or other expenses, shall be presented to said board in duplicate and shall be passed upon by said board. If found correct, said board shall audit the same, preserving one duplicate and transmitting the other as audited or allowed to the state auditor, and shall issue a certificate to the effect that services have been rendered or materials furnished, and the person named therein is entitled to a warrant for the amount named therein. Upon the presentation of said certificate, the state auditor shall draw his warrant for the amount allowed, to the order of the person named in said certificate, and said warrant shall be paid by the state treasurer upon demand, out of the state capitol building fund, provided, that no certificate shall be issued or debt created at any time in excess of the amount of cash in such state capitol building fund when such certificate is issued or debt created.

§ 4. Reports] Said board shall on or before the 30th day of October, 1907, prepare and file with the governor of the state for his use, and for the use of the legislature, a full, detailed report of all their transactions to said date, containing an itemized and classified statement of all expenditures.

§ 5. Emergency] Whereas, an emergency is declared to exist, and does exist, this act shall be in force and shall take effect from and after its passage and approval.

Approved March 2, 1905.

STATE LIBRARY

CHAPTER 164

(H. B. 86)

RELATING TO STATE LIBRARY

AN ACT Entitled an Act Defining the State Library and Providing for Its Custody and Care.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. The state library is hereby defined to consist of the library of books, papers and documents collected by the State Historical Society and the miscellaneous collection of books, papers and documents, hitherto in the custody of the secretary of state, and exclusive of the library of the supreme court.

§ 2. The state library shall be in the custody of the department of history, and the secretary of the State Historical Society is hereby constituted the librarian thereof. It shall be the duty of the said librarian to arrange, classify and index the state library and keep it at all times during the usual office hours available for examination by the public.

§ 3. All surplus reports of state officers and departments shall be placed in said library; Provided, that each officer and department shall determine if any reports of that office or department can be spared as surplus for the purpose. The librarian may sell or exchange any of such reports or other duplicate works which may be, or come into the possession of the state library, provided that the proceeds of the sale of such books and documents shall be paid into the state treasury and shall be paid out only upon the warrant of the state auditor for additions to said library, or for binding documents and publications or rebinding books in need of repair. The librarian may from time to time buy such books and publications as he may deem desirable for such library from any funds available for such purpose.

§ 4. All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 16, 1905.

STATE AUDITOR

CHAPTER 165

(H. B. 99)

RELATING TO DUTIES OF STATE AUDITOR

AN ACT to Amend Section 77, of Article 4, of Chapter 3, of the Revised Political Code of 1903, Relating to the Duties of State Auditor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 77, of Article 4, of Chapter 3, of the Revised Political Code of 1903 be and the same is hereby amended so as to read as follows:

Section 77. The state auditor shall submit a report to the governor of the state on or before the 15th day of November in each year, which shall show:

1. A statement of the dates, number and amount of each warrant, the person in whose favor, and on what fund each warrant was drawn; the total amount of warrants redeemed and returned to him by the state treasurer; a statement of account of the several funds and appropriations, which shall show the sums appropriated for each fund, the amount of warrants on each fund, and the unexpended balance of the same for the fiscal year ending with the 30th day of June preceding.

2. A report of the proceedings of the state board of assessment and equalization for the current year, together with an abstract of the assessment as equalized by the state board of assessment and equalization.

3. A statement showing the total liabilities, assets, resources and expenditures, and the total receipts and disbursements of each of the counties of the state for the fiscal year ending with the 30th day of June preceding.

4. Such remarks on the finances of the state as he shall deem proper, which report shall also include any and all other information and tables necessary to be published.

5. It shall be the duty of the county auditors and county treasurers of the state to furnish the information called for in paragraph 3 of this section upon request of the state auditor.

Approved February 20, 1905.

STATE TREASURY

CHAPTER 166

(S. B. 201)

RELATING TO STATE OFFICERS AND BOARDS

AN ACT to Amend Section 313 of the Political Code of 1903, Relating to Payment of Moneys into the State Treasury.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 313 of the Political Code of 1903 be and the same is hereby amended so as to read as follows:

[Section 313.] All moneys received or collected by any state board, the department of history, or by any superintendent or other officer of any public institution of this state, for the use and benefit of the state institutions, whether from fees or board of inmates therein, or from any other source whatever, except moneys received from the United States for the benefit of the agricultural college, known as the Hatch and Morrill funds, shall be paid into the state treasury by the members of such boards or officers of such institutions within ten days after the close of each month, except the steward of the hospital for the insane, who shall retain (\$1,000) one thousand dollars in his hands to be known and used as an incidental cash fund, and all such funds so received by the state treasurer are hereby annually appropriated for such use and benefit of the respective institutions from which received, as such governing boards may deem best, and shall be paid out upon the warrants of the state auditor, issued upon duly audited, certified and itemized vouchers, after the same have been approved by the respective governing boards of the respective institutions, it being the intent and purpose of this act to provide for the payment of all funds herein named in the same manner as appropriations from the general fund are now paid. Provided, that no warrant shall be issued in excess of the amount in the hands of the state treasurer; and, provided further, that the receipts of one fiscal year shall not be applied to the payment of expenses incurred prior to the beginning of said year, and all balances remaining at the close of the fiscal year shall be carried forward and become a part of the receipts of the succeeding fiscal year.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 8, 1905.

SUPREME COURT REPORTS

CHAPTER 167

(S. B. 125)

RELATING TO EXCHANGE OF SUPREME COURT REPORTS

AN ACT Entitled an Act Relating to the Exchange of the Supreme Court Reports of South Dakota for the Supreme Court Reports of Other States for the Library of the College of Law of the State University.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That in addition to the number of each volume of the South Dakota supreme court reports now authorized to be printed and published for use and distribution by the state, that there be printed and published, under the supervision of the secretary of state, fifty numbers of each volume of said reports for the use of the college of law of the state university.

§ 2. The use herein contemplated is that of the exchange of such South Dakota reports by the said college of law for the supreme court reports of other states of the United States, to be effected through the schools of law of such other states, or otherwise. And the supreme court reports of other states with which such exchange is made shall be added to and become a part of the library of said college of law. Such exchange shall be under the supervision of the dean of said college of law, and he is hereby authorized to arrange for the same with schools or colleges of law of other states, or with the proper authorities in behalf of such schools or colleges of law.

Provided, that such exchange shall relate only to the volumes of said South Dakota supreme court reports now being printed or hereafter to be printed and published; and, provided further, that the exchange with any state for the purposes aforesaid shall be for the volumes of the reports of such state as printed and published in

exchange for the volumes of the reports of this state as the same shall be printed and published.

Approved March 8, 1905.

SWINDLING

CHAPTER 168

(H. B. 30)

DEFINING THE CRIME OF SWINDLING

AN ACT Entitled an Act Defining the Crime of Swindling and the Confidence Game, Prescribing the Form of Indictment and the Punishment for Such Crimes.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Every person or persons who shall obtain, or attempt to obtain, from any person or persons any money or property by means or by use of any false or bogus check or checks, draft or drafts, or by any other means, instrument or device commonly called or known as the confidence game, shall be guilty of a felony, and upon conviction thereof shall be imprisoned in the state penitentiary not less than one year nor more than ten years.

§ 2. Swindling by Cards—Sleight of Hand] Whoever, by the game of three card monte, so called, or any other game, device, sleight of hand, pretention to fortune telling, trick or other means whatsoever by use of cards or other implements or instruments, fraudulently obtains from another person property of any description shall be punished as in case of larceny of like value.

§ 3. Confidence Game—Indictment] In every indictment under section one hereof it shall be deemed and held a sufficient description of the offense to charge that the accused did theretofore unlawfully and feloniously obtain or attempt to obtain (as the case may be) from A. B. (here insert the name of the person defrauded) his money (or property in case it be not money) by means of and by use of the confidence game.

§ 4. Swindling by Cards—Indictment] In every indictment

under section two hereof it shall be deemed and held a sufficient description of the offense to charge that the accused did theretofore unlawfully and feloniously obtain or attempt to obtain (as the case may be) from A. B. (here insert the name of the person defrauded) or attempt to be defrauded his money (or property in case it be not money) by means and by use of the game of three card monte, sleight of hand, pretensions to fortune telling or trick by use of cards or other implements or instruments as the case may be.

§ 5. There being no law covering the above class of offenses upon the statute books, an emergency is hereby declared to exist, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1905.

TOWNS

CHAPTER 169

(H. B. 116)

RELATING TO THE INCORPORATION OF TOWNS

AN ACT to Amend Section 1418 of the Revised Political Code of South Dakota of 1903, Relating to the Incorporation of Towns.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 1418 of the Revised Political Code of 1903 of the state of South Dakota is hereby amended to read as follows:

Section 1418. Such persons shall cause an accurate census to be taken of the resident population of such territory as it may be on some day not more than thirty days previous to the time of presenting such application to the board of county commissioners as hereinafter provided, which census shall exhibit the name of every head of a family residing within such territory on such day, and the number of persons belonging to every such family; and it shall be verified by the affidavit of the person taking the same. Provided, that no town shall be incorporated which contains less than two hundred legal residents, or less than fifty qualified voters. Pro-

vided, further, that this act shall in no way affect any town or village heretofore incorporated.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. Whereas, there is now no minimum limit to the number of inhabitants necessary to incorporate a town, an emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 7, 1905.

CHAPTER 170

(H. B. 60)

RELATING TO TOWN OFFICERS

AN ACT to Amend Sections 1431, 1432 and 1455 of Chapter 15 of the Revised Political Code of 1903 of the State of South Dakota, Relating to Town Officers.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That sections 1431, 1432 and 1455 of Chapter 15 of the Revised Political Code of 1903 of the State of South Dakota, be amended to read as follows:

Section 1431. There shall be elected at the first election, and at each subsequent election, one trustee from each district in said town, and also a clerk, assessor, treasurer, justice of the peace, and one overseer of highways from each road district in said town, who shall respectively hold their offices until the third Tuesday of March following, or until their successors are elected and qualified.

Section 1432. The persons having the highest number of votes for the office of trustee shall be declared elected as such trustees, and the person having the highest number of votes respectively for clerk, assessor, treasurer and justice of the peace, as designated by ballot for such office, shall be declared so elected; and if two or more shall have an equal and highest number of votes and there shall be no choice, the inspectors of such elections shall forthwith determine by lot which shall be deemed elected; and it shall be the further duty of such inspectors to make a certified statement over their own signatures, of the persons elected to fill the several offices in said town, and file the same with the county auditor in the county thereof within ten days after the date of such election; and no act or ordinance of

any board of trustees chosen at such election shall be valid until the provisions of this section are substantially complied with.

Section 1455. The marshal of such town shall be appointed by the board of trustees, and subject to removal by them, and he shall be a peace officer and shall possess the powers and be subject to the liabilities possessed and conferred by law upon sheriffs in executing the orders of the trustees or enforcing the by-laws and ordinances of said town.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

§ 3. Whereas, an emergency exists, therefore this act shall take effect and be in force from and after its approval.

Approved February 16, 1905.

TOWN TREASURER

CHAPTER 171

(H. B. 125)

RELATING TO TOWN TREASURER

AN ACT to Amend Section 1452 of the Revised Political Code of South Dakota, Relating to the Duties of the Town Treasurer, and Fixing the Date of Settlement With the Town Treasurer.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 1452 of the Revised Political Code of 1903 be and the same is hereby amended to read as follows:

Section 1452. Duties of Board] The treasurer of every incorporated town shall so keep his accounts as to show where and from what sources all moneys paid to him have been derived, and to whom and when such moneys or any part thereof have been paid. The treasurer shall grant all licenses authorized by this chapter, upon the presentation of the receipt of the marshal that the money therefor has been paid to said marshal.

His books, accounts and vouchers shall at all times be subject to the examination of the board of trustees, and it is hereby made their

duty to examine the same at a regular meeting of such board on some day between the first and last Mondays of February in each year, and have settlement with the said treasurer.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 27, 1905.

TWINE FACTORY

CHAPTER 172

(H. B. 153)

RELATING TO TWINE PLANT AT PENITENTIARY

AN ACT Entitled an Act to Establish and Install a Twine and Cordage Plant and a Shirt and Overall Factory at the State Penitentiary, for the Purpose of the Employment of the Convicts of Such State Penitentiary; Appropriating Moneys for the Construction of Such Twine and Cordage Plant and Shirt and Overall Factory, and Prescribing the Manner of Disposition and Sale of the Twine.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. The board of charities and corrections are hereby authorized and empowered to establish, build and construct a hard fiber twine and cordage plant at the state penitentiary, and are also hereby authorized and empowered to establish, build and construct a factory for the manufacture of shirts and overalls at the state penitentiary.

§ 2. The board of charities and corrections shall, at as early date as practicable, construct the necessary buildings and purchase the machinery, tools and fixtures, and all other things that may be necessary to establish the twine and cordage plant provided for in section one hereof; and in the construction of said twine and cordage plant they shall utilize to as great extent as possible the labor of the inmates of said penitentiary; said twine and cordage plant shall be ready for operation not later than the 1st day of February, A. D. 1907.

§ 3. The board of charities and corrections shall, at as early

date as practicable, construct the necessary buildings and purchase the machinery, tools, fixtures, and all other things that may be necessary to establish the shirt and overall factory provided for in section one hereof; and in the construction and erection of said shirt and overall factory they shall utilize to as great extent as possible the labor of the inmates of said penitentiary, and said shirt and overall factory shall be ready for operation as soon hereafter as practicable.

§ 4. That there is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of seventy thousand dollars (\$70,000) to defray the cost and expense of building, constructing and establishing such twine and cordage plant; twenty thousand dollars of which shall be used and expended in constructing the necessary building or buildings for such twine and cordage plant, and fifty thousand dollars of which shall be used and expended for purchasing, procuring and providing the necessary engines, boilers, machinery and tools in equipping said twine and cordage plant and placing the same ready for use and operation. Provided, however, that no part of said sum of fifty thousand dollars shall be used or expended prior to November 15, A. D. 1906.

§ 5. That there is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of six thousand dollars (\$6,000) to defray the cost and expense of constructing the necessary building and providing and furnishing the necessary machinery and appliances for the operation of said shirt and overall factory.

§ 6. The state auditor is hereby authorized and directed to issue warrants upon the above appropriations as provided in the sections four and five hereof, upon itemized statements approved by the board of charities and corrections, and the state treasurer is hereby authorized to pay same.

§ 7. The board of charities and corrections are hereby authorized and empowered to place said shirt and overall factory in operation as soon hereafter as practicable. And they are hereby authorized, empowered and directed to make all contracts which in their judgment they shall deem necessary, proper or advantageous for the purpose of operating such shirt and overall factory, in order to the end that as many of the convicts as they deem proper may be employed in the operation of such factory.

§ 8. The price of binding twine to be manufactured at the said twine and cordage plant at the state penitentiary shall be fixed by the warden and board of charities and corrections, the governor and state auditor each year, as soon as practicable, and not later than March 1st, and to be sold only to farmers or actual consumers thereof who are residents of the state of South Dakota, in quantities necessary for their own use, up to and including the first day of

May of each and every year, and shall be sold only for cash or upon such security as the warden of the state penitentiary may approve.

§ 9. Balance left on hand may be disposed of in bulk. All the twine on hand the first day of May of any year for which no order has been given by farmers or actual consumers, except twenty-five thousand pounds to be kept to fill subsequent orders, may after said date be disposed of by the said warden and board of charities and corrections in bulk to any citizen of this state applying therefor, at the price fixed by the board of charities and corrections, conditions hereinafter named.

§ 10. Such warden or board of charities and corrections shall require from any such person applying to obtain such twine a written agreement that he will re-sell such twine to actual consumers who desire the same for their own actual use, and that he will not re-sell such twine in bulk to any other dealer, or attempt to evade the provisions of this act. Such person shall further agree that he will so re-sell such twine to actual consumers at a price not greater than one cent per pound above the price paid therefor, with the cost per pound of transportation from the state penitentiary to the place of re-sale added.

§ 11. The state shall have a contingent interest in the twine so disposed of in bulk until the same is re-sold as herein provided, and the title of such twine so purchased from the state shall become complete and the purchaser be relieved from further accountability under this act only when he has fully complied with the said contract as to the manner and terms of such re-sale.

Such person shall also be required by said warden and board of charities and corrections to keep such state penitentiary twine separate from any other twine he may have on hand for sale, and to keep a correct record of the date, amount, price and name of purchaser on all sales thereof made by him, which record shall be open at all times to any state penitentiary official or the state's attorney of the county of his residence. In the sale, distribution and disposition of the twine the board of charities and corrections and the warden of the state penitentiary shall apportion and divide the same throughout the several agricultural counties of the state, as nearly as may be according to the acreage therein of grain requiring the use of binding twine.

If any twine remains on hand unsold after July 1st in any year, the same may be sold absolutely to the first applicant therefor.

§ 12. Any violation of the provisions of this act on the part of any person or persons selling binding twine manufactured at the state penitentiary, shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300) and cost of prosecution, or by imprisonment

in the county jail for a term not less than thirty (30) days nor more than three months.

§ 13. Whereas, an emergency exists and is hereby declared to exist, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1905.

WATERWORKS

CHAPTER 173

(H. B. 48)

RELATING TO WATERWORKS

AN ACT Entitled an Act to Legalize the Construction of a System or Part of System of Waterworks Heretofore Constructed by Any City or Municipality in This State, and to Authorize Said City or Municipality to Use the Same, and Also to Legalize Any Bonds Issued Therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That whenever any city or municipal corporation in this state shall have heretofore constructed any system or part of a system of waterworks by means of the proceeds of the sale of bonds issued for that purpose in excess of the constitutional limitation of indebtedness, or where such bonds were void or voidable by reason of being in excess of the constitutional limitation of indebtedness, or of any defect, informality or irregularities in the issuance of the same, or in the calling and holding of the election pursuant to which the same were issued, or which bonds have been issued without any election having been called and held prior to the issuance thereof, all such systems or parts of a system of waterworks, and all property acquired by the city in the course of the construction of the same, shall be and hereby are declared to be the property of such city, and such city shall have the right to own, hold, use and operate such system or part of a system of waterworks and the property so acquired in connection therewith, and shall have as full, complete and legal title thereto as if the said bonds so issued

had been in strict compliance with the constitution and statutes of this state and had been legally and regularly issued.

§ 2. Whenever any city or municipal corporation in this state shall have heretofore issued bonds for the purpose of providing water for domestic uses without the formalities prescribed by law, or without calling and holding an election as provided by law, and where such bonds have been put upon the market and sold and the proceeds thereof, in whole or in part, used in the construction of a system or part of a system of waterworks by such city, such bonds and the construction of such system or part of system of waterworks by said city shall be and hereby are declared to be of the same validity, force and effect as if said bonds had been issued and such waterworks constructed in full compliance with the provisions of the law of this state at the time of the issuance and construction of the same. Provided, that an election be held in said city at which a majority of the electors voting at such election shall vote to ratify and confirm the issuance of said bonds.

§ 3. The city council of any such city may by resolution, duly passed at any regular meeting of such city council, or special meeting called for that purpose, call a special election as provided in section two (2) of this act. Such special election shall be advertised as now provided by law for calling special elections in such cities.

§ 4. The question to be submitted and the ballots to be voted at all elections held pursuant to the provisions of this act shall read as follows:

"In favor of ratifying and confirming the bonds issued by the city of....., in the sum of..... dollars, on the..... day of....., 19...., for the purpose of providing water for domestic uses."

"Against ratifying and confirming the bonds issued by the city of....., in the sum of..... dollars, on the..... day of....., 19...., for the purpose of providing water for domestic uses."

Such election shall be conducted and the vote cast thereat shall be counted, returned and canvassed in such manner as is now provided by law for elections in such cities.

§ 5. There being no adequate provision of law upon the subject of this act, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1905.

CHAPTER 174

(S. B. 31)

AUTHORIZING CONDEMNATION OF PROPERTY FOR WATERWORKS

AN ACT Entitled an Act to Authorize Cities to Purchase and Acquire by Condemnation Private Property Within and Without the Corporate Limits Thereof, for the Purpose of Establishing, Constructing, Maintaining and Operating a System of Water Works for Domestic and Other Uses of the City and Its Inhabitants.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That the cities of this state be, and they are, and each thereof, hereby empowered to purchase, appropriate, damage, take and condemn, any property of any corporation or person, either within or without the corporate limits of the city, for the purpose of establishing, constructing, equipping, maintaining and operating a system of water works for domestic and other uses, for such cities and their inhabitants.

§ 2. That the authority to purchase, appropriate, damage, take or condemn the property of any corporation or person, provided for in section 1 of this act, within or without the corporate limits of the cities of this state, is intended to and does authorize and empower the cities of this state to purchase, or acquire by condemnation, the waters of any stream or creek, beyond the limits of the city at such distance as the city council thereof shall by resolution declare necessary; and divert the waters from the stream, and convey the same by ditch, or flume, or other appliance, to such city, for domestic and other uses of the city and its inhabitants; also to acquire by purchase or condemnation, sites for reservoirs for intake and storage, and to acquire by purchase or condemnation, rights of way for conduit lines for such system of water works, and for the maintenance and operation of such system of water works, including the maintenance of dams, reservoirs, conduit lines and all other appliances connected therewith.

§ 3. Whenever any city council shall deem it necessary to appropriate or damage any private property, either within or without the corporate limits of the city, for the purpose of establishing, constructing, equipping, maintaining and operating a system of water works for domestic or other uses of the city and its inhabitants, the said council shall, by a resolution passed by two-thirds majority of all the members elect, declare such appropriation necessary to be made, stating the purpose therefor, and the extent of such appropriation, and thereupon the proceedings for such appropriation and condemnation shall be had, as provided for by Chapter 40 of the Revised Code of Civil Procedure of 1903.

§ 4. All acts or parts of acts in conflict with the provisions hereof are hereby repealed.

Approved January 24, 1905.

CHAPTER 175

(H. B. 164)

RELATING TO CONDEMNATION OF PROPERTY FOR WATERWORKS

AN ACT Entitled an Act Amending Sections 2, 3 and 4 of Senate Bill No. 31, Approved January 24, 1905, Being "For an Act Entitled an Act to Authorize Cities to Purchase and Acquire by Condemnation Private Property Within and Without the Corporate Limits Thereof, for the Purpose of Establishing, Constructing, Maintaining and Operating a System of Waterworks for Domestic and Other Uses, of the City and Its Inhabitants."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. Amendment] That section two of Senate Bill No. 31, approved January 24, 1905, being an act for an act entitled "An act to authorize cities to purchase and acquire by condemnation private property within and without the corporate limits thereof, for the purpose of establishing, constructing, maintaining and operating a system of waterworks for domestic and other uses, of the city and its inhabitants," be and is hereby amended so as to read as follows:

Section 2. That the authority to purchase, appropriate, damage, take or condemn the property of any corporation or person provided for in section one of this act, within or without the corporate limits of the cities of this state, is intended to and does authorize and empower the cities of this state to purchase, or acquire by condemnation, the waters of any stream or creek, beyond the limits of the city as hereinafter provided, whenever the city council thereof shall by resolution declare it to be necessary; and divert such waters from the stream and convey the same by ditch, or flume, or other appliance, to such city for domestic uses of the city and its inhabitants, also to acquire by purchase or condemnation sites for reservoirs for intake and storage, and to acquire by purchase or condemnation rights of way for conduit lines for such system of waterworks, and for the maintenance and operation of such system of waterworks, including the maintenance of dams, reservoirs, conduit lines and all other appliances connected therewith. Provided, however, that the waters of any stream so condemned, appropriated or diverted for the use of any city or its inhabitants, under this act, shall be re-

turned to the natural channel of the same stream at or near the place where so used. Nor shall the waters of any stream be so condemned, appropriated, diverted or used by any city or its inhabitants unless the corporate limits of said city are within the watershed of the stream from which said waters are to be so condemned, appropriated or diverted.

§ 2. That section three of said act be and the same is hereby amended so as to read as follows:

Section 3. Whenever any city council shall deem it necessary to appropriate or damage any private property, either within or without the corporate limits of the city, for the purpose of establishing, constructing, equipping, maintaining and operating a system of waterworks for domestic uses of the city and its inhabitants, as herein provided, the said council shall, by a resolution passed by two-thirds majority of all the members elect, declare such appropriation necessary to be made, stating the purpose therefor, and the extent of such appropriation, and thereupon the proceedings for such appropriation and condemnation shall be had, as provided for by Chapter 40 of the Revised Code of Civil Procedure of 1903.

§ 3. That section four of said act be and the same is hereby amended so as to read as follows:

Section 4. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 11, 1905.

CHAPTER 176

(H. B. 51)

AUTHORIZING SALE OR LEASE OF WATERWORKS

AN ACT Entitled an Act to Empower Cities of the First Class to Sell, Lease or Otherwise Dispose of Any System or Part of a System of Waterworks Constructed and Owned by Such City.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That the city council of any city or municipal corporation of the first class in this state is hereby empowered to sell, lease or otherwise dispose of any system or part of a system of waterworks constructed and owned by such city or municipal corporation. Provided, however, that before any such sale, lease or other disposition of such system or part of a system of waterworks shall be made by such city council, the same shall be authorized by a vote in favor

thereof by a majority of the electors of such city or municipal corporation at either a general or special election duly called and held therefor, of which election at least twenty days notice shall be given by publishing such notice in the official newspaper of such city stating the purpose for which said election is called and the time and manner of holding the same.

§ 2. That whenever an election is held under the provisions of this act, the question submitted and the form of ballot used shall state the minimum price at which any such system or part of system of waterworks shall be sold, if the vote be taken upon the question of selling; and if the vote be taken upon the question of leasing, then the terms of the lease shall, in substance, be stated.

§ 3. That the form of the ballot to be used at such election shall be prescribed by resolution of the city council.

§ 4. An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1905.

WOLF BOUNTY

CHAPTER 177

(S. B. 28)

RELATING TO BOUNTY ON WOLVES AND MOUNTAIN LIONS

AN ACT Entitled an Act Amending Sections 3113, 3114, 3115 and 3121 of the Political Code of 1903, Providing Amount of Bounty, How Obtained, Duty of Commissioners, and Amount of Appropriation for the Payment of Bounty on Wolves.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That sections 3113, 3114, 3115 and 3121 of the Political Code of 1903 be amended to read as follows:

Section 3113. There shall be paid as hereinafter provided, for the killing within the boundaries of this state of the animals hereinafter mentioned the following bounties, to-wit: For each grown buffalo or black or gray timber wolf so killed, five dollars; or for

each pup buffalo or pup black wolf two dollars, or the proportion thereof as provided for in section 3121; for each mountain lion three dollars, or the proportion thereof as provided for in section 3121; and for each coyote or prairie wolf two dollars, or its proportion thereof, as provided for in section 3121.

Section 3114. Any person killing in this state one or more of the above named animals and who shall desire to claim the bounty therefor, shall within thirty days of the date of the killing, exhibit the skin or skins of the said animal or animals, including the tail and the skin from the entire head, including the ears thereof, and including the upper and the skin of the lower jaws, together with the lips of the animal attached to the skin, to the board of county commissioners of the county in which said animal shall have been killed, or shall leave the same within said time with the county auditor of said county, in such condition that the board of county commissioners shall be satisfied that there is no fraud connected therewith, and shall at the same time file with the county auditor his affidavit that the wolf or animal on which the bounty is claimed was killed within said county and state, giving the date thereof and by whom, and that the skin and scalp, as above described, which is produced, is the skin and scalp of such wolf or animal, and that no allowance or bounty has been received or paid for the killing of such wolf or animal, which affidavit shall be substantially as follows:

"I do solemnly swear that the skin, including the tail and skin from the entire head, including the ears thereof, and including the upper and the skin of the lower jaws, together with the lips of the animal attached to the skin—now exhibited to the auditor of the county of—, state of South Dakota, taken from—animal—, by—, killed within said county and state since the passage of the act of the legislature of the state of South Dakota, approved the—day of—, 1905."

Section 3115. It shall be the duty of the county commissioners of each county in which the skin or skins of such animal or animals, including the tail and the skin from the entire head, including the ears thereof, and including the upper and the skin of the lower jaws, together with the lips of the animal attached to the skin, is exhibited, to examine such skin or skins and scalp or scalps as above described; and if they find such skin and scalp, as above described, have not been patched, covered, punched or cut, they shall then and there cut from the skin the skin of the lower jaw and destroy it by burning the same to ashes, and shall then return the balance of the hide to the one exhibiting the same.

Section 3121. For the purpose of carrying out the provisions of this article there is hereby appropriated out of the general fund the sum of ten thousand dollars for each fiscal year, or so much thereof as may be necessary, and not otherwise appropriated. Pro-

vided, that no part of said sum of ten thousand dollars appropriated annually as aforesaid shall be paid out by the treasurer, nor shall the state auditor draw his warrants thereon until thirty days after the close of each fiscal year have elapsed, and the state auditor shall draw his warrant upon such fund so appropriated, and such fund so appropriated shall be paid out to each holder of any certificate or certificates for wolves, mountain lions or coyotes killed during the preceding year in the proportion that the certificate or certificates of each holder bear to the total amount of certificates issued.

Provided, however, that the amount per scalp so paid shall not exceed the amount per scalp provided for in section 3113, nor shall the state ever be liable for any further amount so paid; and

Provided, further, that the total amount paid out for such bounties during any one year shall not exceed the sum of ten thousand dollars.

Provided, further, that the certificate holders shall accept the above specified pro rata in full payment for the aforesaid certificate or certificates. And

Provided, further, that any portion of the above mentioned ten thousand dollars which may not be used shall revert to the general fund of the state treasury.

§ 2. All acts and parts of acts inconsistent herewith are hereby repealed.

Approved March 3, 1905.

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